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U.S. Citizenship
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Services

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MAR 30 2005

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER

Date:

IN RE: Applicant: [REDACTED]

PETITION: Application for Status as a Temporary Resident pursuant to Section 210 of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on adverse information acquired by the Service relating to the applicant's claim of employment for [REDACTED] at Santa Maria Berry Farms.

On appeal, the applicant stated that he was employed by another farm labor contractor during the qualifying period.

In order to be eligible for temporary resident status as a special agricultural worker, an alien must have engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986, and must be otherwise admissible under section 210(c) of the Act and not ineligible under 8 C.F.R. 210.3(d). 8 C.F.R. 210.3(a). An applicant has the burden of proving the above by a preponderance of the evidence. 8 C.F.R. 210.3(b).

On the Form I-700 application, the applicant claimed to have performed 104 man-days harvesting strawberries for [REDACTED] at Santa Maria Berry Farms in Santa Barbara County, California from October 1985 to February 1986.

In support of his claim, the applicant submitted an I-705 affidavit and a separate employment statement, both purportedly signed by [REDACTED]

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. On January 29, 1990, a Service officer interviewed the office manager for Santa Maria Berry Farms. That official indicated that [REDACTED] employed "not more than two (2) to three (3) individuals at any given time . . . (and these) individuals were continuously being replaced by newly hired employees." [REDACTED] had sub-leased 2.29 acres of farm land in 1985, and 2.1 acres in 1986. The farm's office manager, speaking from 22 years of experience in farming, stated that "there is only a need for two (2) persons per acre of land in strawberry farming."

Furthermore, in a sworn affidavit dated July 27, 1989, [REDACTED] stated that he had been advised that his signature had been forged on employment documents, and that he had never authorized anyone to sign such documents in his name. [REDACTED] further stated that "(a)ny document which purports to bear my signature in reference (to) any INS application should therefore be regarded as null and void."

On March 14, 1991, the applicant was advised in writing of the adverse information obtained by the Service, and of the Service's intent to deny the application. The applicant was granted thirty days to respond. The notice was returned to the director marked "attempted, not known." The record reflects that the applicant was subsequently remailed a copy of the notice of intent to deny on April 6, 1993 and again on October 20, 2004. The record does not contain a response to the notice of intent to deny.

The director determined that the applicant had failed to overcome the adverse evidence, and denied the application on May 30, 1991. On appeal, the applicant stated that he was employed by [REDACTED] another farm labor contractor during the qualifying period. The applicant stated that he was submitting a Form W-2 to corroborate this employment. The record does not contain this document.

Generally, the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and amenability to verification. 8 C.F.R. 210.3(b)(1). Evidence submitted by an applicant will have its sufficiency judged according to its probative value and credibility. 8 C.F.R. 210.3(b)(2). Personal testimony by an applicant which is not corroborated, in whole or in part, by other credible evidence (including testimony by persons other than the applicant) will not serve to meet an applicant's burden of proof. 8 C.F.R. 210.3(b)(3).

An applicant raises questions of credibility when asserting an entirely new claim to eligibility on appeal. The instructions to the Form I-700 application do not encourage applicants to limit their claims; rather, applicants are encouraged to list multiple claims, as they are instructed to show the most recent employment first. Further, as the applicant has not contested the finding that his initial claim was false, his overall credibility is suspect. Larger issues of credibility arise when an applicant claims employment which is called into question through Service investigation, and later attempts to establish eligibility with a different employer, heretofore never mentioned to the Service.

The applicant's purported employer, has denounced employment affidavits in his name as forgeries and declared all such documents to be "null and void." An official of Santa Maria Berry Farms has indicated that only hired small numbers of workers who were frequently replaced. The applicant has not overcome this adverse information, which directly contradicts his claim. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has failed to credibly establish the performance of at least 90 man-days of qualifying agricultural employment during the twelve-month statutory period ending May 1, 1986. Consequently, the applicant is ineligible for adjustment to temporary resident status as a special agricultural worker.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.