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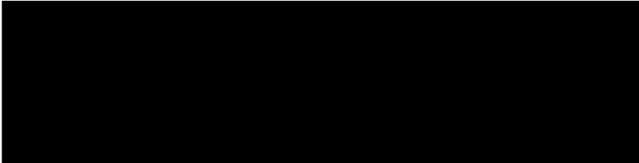
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, D.C. 20529



U.S. Citizenship
and Immigration
Services

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FILE:



XLB 89 045 02130

Office: CALIFORNIA SERVICE CENTER

Date: APR 30 2007

IN RE:

Applicant:



APPLICATION:

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. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
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 on appeal. The appeal will be dismissed.

The director concluded the documentation submitted did not satisfy the applicant's burden of proof of having performed qualifying agricultural employment. This conclusion was based on derogatory evidence obtained from legacy Immigration and Naturalization Service (INS) attempts to verify the applicant's claimed employment for sharecropper [REDACTED] at [REDACTED].

The director indicated in the Notice of Intent to Deny (NOID) that [REDACTED] was the owner of [REDACTED], and that [REDACTED] provided the legacy INS with a list of sharecroppers who worked on his farm during the qualifying period. The applicant's claim was found not to be credible because [REDACTED] is not named on this list. The applicant failed to respond to the director's NOID.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application.

On appeal, the applicant submits an affidavit from [REDACTED] who indicated that he was a sharecropper for [REDACTED] in Santa Maria California and that the applicant worked for him for approximately 104 days between May and October 1985.

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).

There is no mandatory type of documentation required with respect to the applicant's burden of proof; however, the documentation must be credible. All documents submitted must have an appearance of reliability, i.e., if the documents appear to have been forged, or otherwise deceitfully created or obtained, the documents are not credible. *United Farm Workers (AFL-CIO) v. INS*, Civil No. S-87-1064-JFM (E.D. Cal.).

According to an information digest previously provided to the applicant, [REDACTED] owner of [REDACTED], [REDACTED] is not included on the list of his sharecroppers for the years 1985 and 1986. The applicant has failed to overcome this adverse evidence, which directly contradicts his employment claim. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has, therefore, 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.

¹ The director incorrectly referred to [REDACTED] as [REDACTED]