



U.S. Citizenship  
and Immigration  
Services

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LL

[REDACTED]

FILE: [REDACTED]  
XLT 88 204 1033

Office: TEXAS SERVICE CENTER

Date: NOV 19 2007

IN RE: Applicant: [REDACTED]

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:

[REDACTED]

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 your case 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, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status as a special agricultural worker was denied by the Director, Southern Service Center, now the Texas 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 submit a complete application within the time permitted as required of S-9 preliminary applicants.

On appeal, the applicant reiterates his claim of at least 90 man-days of qualifying agricultural employment during the requisite period and states that he has filed his Form I-700, Application for Temporary Resident Status as a Special Agricultural Worker, with the required supporting documentation.

The applicant was admitted to the United States at Laredo, Texas, on November 23, 1988, as an S-9 applicant who established a preliminary claim to eligibility for temporary resident status as a special agricultural worker. The applicant indicated on his Form I-700 that he worked for [REDACTED] of Falls City, Texas, picking pumpkins for 120 man-days from February 1985 to August 1985.

The applicant was admitted for a period of 90 days in accordance with 8 C.F.R. § 210.2(c)(4)(iii), and was required, within that 90 day period, to submit a complete application, along with a Fingerprint Card, Form FD-258, to any legalization office. A complete application had to include evidence of qualifying employment, evidence of residence, a report of medical examination, and the prescribed number of photographs. 8 C.F.R. § 210.1(d).

The record indicates that, at the time the preliminary application was presented, the applicant was issued an Immigration and Naturalization Service advisory statement informing him of the requirements for submission of the required documents within the initial 90-day period.

On November 26, 1989, an interview notice was mailed to the applicant at his address of record instructing him to appear at the legalization office in Laredo, Texas, on or before December 15, 1989, to be interviewed and to file a complete Form I-700 application with proof of qualifying agricultural employment during the requisite period. The director informed the applicant that, if he failed to appear as scheduled, final action would be taken on his application, as it was then constituted. The record indicates that the applicant failed to appear for his legalization interview and file a complete application including all required supporting documentation as required.

Pursuant to Legalization Wire CO-1588-C, dated November 28, 1989, the 90-day period within which S-9 applicants were required to submit their complete applications was extended until December 31, 1989. If an S-9 applicant failed to submit a complete application in accordance with the above, his or her application was to be denied for lack of prosecution. 8 C.F.R. § 210.2(c)(4)(iii).

The applicant was permitted until December 31, 1989, to submit a complete application; however, he failed to submit all the necessary documents, namely proof of qualifying agricultural employment. Thus, he failed to submit a complete application.

The director, therefore, denied the application on January 28, 1991, because the applicant failed to submit a complete application within the time permitted as required of S-9 preliminary applicants. Citizenship and Immigration Services (CIS) records indicate that the applicant filed a timely appeal on June 5, 1991; however, the Form I-694, Notice of Appeal of Decision Under Section 210 or 245A of the Act, is not contained in the record of proceedings.

On July 14, 2004, the director sent a notice to the applicant requesting that he reconstruct his appeal. The director also provided the applicant with another opportunity to submit proof of identity, two photos, Form I-693 Medical Examination report, and evidence to corroborate his claim of at least 90 man-days of qualifying agricultural employment during the requisite period. The applicant, in response, submitted proof of identity, two photos, and a Form I-693 medical report. He also submitted an affidavit dated October 22, 2004, in which he stated that he never received a notice instructing him to appear for an interview or submit documents in support of his Form I-700. He further stated that he worked for [REDACTED] in Falls City, Texas, and also for [REDACTED] [sic] in Karnes City, Texas, during the one-year period ending on May 1, 1986. The applicant explained that [REDACTED] and [REDACTED] were both deceased. He stated:

I told the person who filled out the forms for me that I worked for [REDACTED] on his ranch fixing fences, cleaning pastures, and other ranch work and that I worked for [REDACTED] picking "calabaza," which in English can be translated as squash or pumpkin. I actually picked squash for [REDACTED], as well as turnips. My lawyer told me the form said I picked pumpkin for [REDACTED], but this is not correct. I told the person who filled out the form that I worked picking "calabaza" (I meant squash) for [REDACTED] a and ranch work for [REDACTED]. I do not know how to read or write in English so I did not know what she wrote on the form. I thought she wrote what I told her.

The applicant also submitted an affidavit dated October 24, 2004, from [REDACTED]. Mr. [REDACTED] stated:

I have been a vegetable farmer, growing and selling squash since 1976. I was partners with my father [REDACTED] from 1976 to the late 1980s. [REDACTED] passed away in 1991. He was no longer my partner when he passed away.

I do not have records of labor going back 10 to 20 years. I remember [REDACTED] working on the farm many years ago, but I have no records of when he actually worked for us.

The applicant failed to submit proof of qualifying agricultural employment prior to December 31, 1989. In response to the request for additional evidence dated July 14, 2004, he claimed that his work for [REDACTED], the employer he listed on his Form I-700, consisted of ranch duties such as fixing fences and cleaning pastures. This type of work does not constitute qualifying agricultural employment.

The applicant claimed that he also picked squash and turnips for [REDACTED] [sic] during the requisite period. He failed to list this employment on the Form I-700. Rather, he indicated on the Form I-700 that he picked pumpkins for [REDACTED] during the requisite period. He explained that the person who filled out his application for him incorrectly indicated that he picked pumpkins for [REDACTED] and failed to list his employment for [REDACTED] picking squash and turnips.

However, the applicant signed the application certifying under penalty of perjury that the information provided on the application was true and correct. It was his responsibility to ensure that complete and accurate employment information was provided on the Form I-700 at the time he was admitted as an S-9 preliminary applicant for temporary resident status as a special agricultural worker.

Furthermore, the instructions to part #23 of the Form I-700 ask applicants to list "Fieldwork in perishable commodities from May 1, 1983 to May 1, 1986." The instructions to the 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. Therefore, the applicant's explanation as to why [REDACTED] was not listed as an employer on the applicant's Form I-700 original cannot be considered as either adequate or reasonable.

[REDACTED] attested in his affidavit that the applicant worked on his father's farm "many years ago," but was unable to provide any dates of employment because "I have no records of when he actually worked for us." Since the applicant failed to list any employment for [REDACTED] during the requisite period on his preliminary Form I-700, his revised claim of employment for [REDACTED] cannot be accepted.

In summary, the applicant failed to file a complete application by the extended deadline of December 31, 1989. In response to a request for additional evidence, he advanced a significantly revised employment claim and submitted insufficient evidence to corroborate his revised claim of qualifying agricultural employment for [REDACTED]. The applicant has failed to meet the statutory requirements for eligibility as a special agricultural worker and is, therefore, ineligible for temporary resident status.

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