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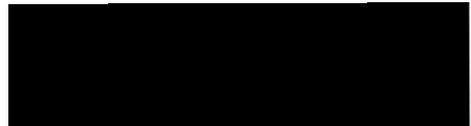
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS2090
Washington, DC 20529-2090



U.S. Citizenship and Immigration Services

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FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date:
XLA-88-504-5128

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.



Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: This matter is an application for temporary resident status as a special agricultural worker that was initially denied by the Director, Western Service Center for failure to appear at two or more scheduled interviews. United States Citizenship and Immigration Services (USCIS) reopened the matter *sua sponte*. Following the applicant's August 2, 2006 interview with USCIS, the application was subsequently denied again by Director, California Service Center. The case is before the Administrative Appeals Office (AAO) on appeal and the appeal will be dismissed.

The director denied the application because the applicant failed to demonstrate that he had performed at least 90 man-days of qualifying agricultural employment during the 12-month period ending May 1, 1986. On appeal, the applicant indicates that the denial is contrary to the terms of the law and is an abuse of discretion.

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 Immigration and Nationality Act (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 employment picking broccoli and cherry tomatoes strawberries for [REDACTED] in Kelseyvin, California from January 1, 1986 to June 1, 1986. On April 17, 2007, the director issued a Notice of Intent to Deny (NOID) indicating that the applicant provided testimony which was inconsistent with the Form I-705 affidavit. Specifically, the director noted that the applicant was interviewed on August 2, 2006 by USCIS. During that interview, the applicant indicated that he started working for [REDACTED] from January 1986 until June 1986, as he asserted on his Form I-700. However, the applicant submitted a statement from [REDACTED] that indicates that the applicant was employed by [REDACTED] from September 1985 until January 1986. Noting this inconsistency, the director denied the application on July 25, 2007.

On appeal, the applicant reaffirms his claim of employment for [REDACTED] in Kelseyvin, California during the eligibility period. He does not address the inconsistency noted by the director, nor does he provide any additional information which supports his eligibility. He states only that the director's decision is contrary to the terms of the law and is an abuse of discretion.

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 . . . if the Service [now CIS] has not obtained information which would refute the applicant's evidence, the applicant satisfies the requirements for the SAW [special agricultural worker] program with respect to the work eligibility criteria. *United Farm Workers (AFL CIO) v. INS*, Civil No. S 87 1064 JFM (E.D. Cal. June 15, 1989).

An applicant for temporary resident status has the burden of proving by a preponderance of the evidence that he or she has worked the requisite number of days, is admissible to the United States under the provisions of section 210(c) of the Act, 8 U.S.C. § 1160, and is otherwise eligible for adjustment of status. 8 C.F.R. § 210.3(b)(1). The applicant has failed to meet this burden.

On appeal, the applicant requested a copy of the record of proceedings (ROP), indicating that he would submit a brief after receipt of the ROP. This ROP request was processed on June 3, 2009. Four months have lapsed and the applicant has not supplemented the record.

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