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



**U.S. Citizenship
and Immigration
Services**



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Date: Office: [REDACTED]

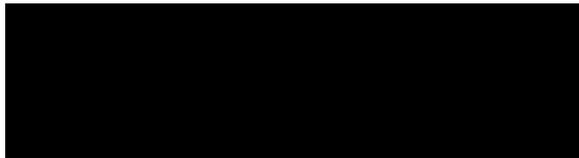
APR 13 2011

FILE: [REDACTED]

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:



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.

Elizabeth McCormack

Perry Rhew
Chief, Administrative Appeals Office

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

The director denied the application, finding 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 the [REDACTED] farm.

On appeal, the applicant reiterates that he worked on the [REDACTED] farm for 98 days, picking oranges and lemons. He further indicates that he did not receive his Notice of Intent to Deny (NOID).

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 worked 98 man-days picking oranges and lemons for farm labor contractor [REDACTED] at the [REDACTED] farm in [REDACTED] from November 2, 1985 through March 13, 1986.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit signed by [REDACTED] which states that the applicant worked from November 2, 1985 through March 13, 1986 at the [REDACTED] farm, picking oranges and lemons.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. The payroll secretary of [REDACTED] parent company of [REDACTED] stated that [REDACTED] contract expired in January 1986 and that [REDACTED] did not provide any workers after that date. This information has since been corroborated by the operations manager of [REDACTED] who asserted that [REDACTED] employment at [REDACTED] farming operations ended January 15, 1986. The Service also learned that oranges and lemons were harvested between October and January, which is inconsistent with the applicant's assertion that he picked oranges and lemons from November 1985 through March 1986. As the applicant did not claim to have worked prior to November 1985, he could not have accrued 90 days by January 15, 1986.

The Service sent a notice to the applicant at his address of record, advising him 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 record contains no response to the Service's notice.

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

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.).

Officials of [REDACTED] have confirmed that [REDACTED] did not work at [REDACTED] after January 15, 1986. The applicant has seriously impaired his credibility by maintaining that he worked at [REDACTED] through March 13, 1986, but submitting no credible documentary evidence in support of this contention. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

It is noted that, in a letter dated November 5, 1993, the operations manager of [REDACTED] informed the Service that, according to their records, [REDACTED] "supplied labor for our farming operations at various times during the period May 1, 1985 through May 1, 1986 . . . Since (January 15, 1986), they were no longer used to provide labor service for [REDACTED] . they provided labor to [REDACTED] a total of 77 days, from May 1, 1985 to January 15, 1986."

The above letter indicates that [REDACTED] did, in fact, consist of more than one farming operation, and that [REDACTED] did provide labor for these operations. However, the credibility of the applicant's claim is undermined by [REDACTED] statement that the [REDACTED] provided labor to [REDACTED] farming operations for less than 90 days during the qualifying period, and that the [REDACTED] did not provide any labor to the farm after January 15, 1986.

The applicant has failed to establish credibly 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.