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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



U.S. Citizenship and Immigration Services

PUBLIC COPY



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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: **AUG 19 2005**

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. The file has been returned to the service center that processed 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, 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 applicant had been admitted to the United States as an S-9 preliminary applicant. The director denied the application because the applicant submitted employment documents which differed significantly from the claim of employment as set forth in the original I-700 application.

On appeal, the applicant submitted a personal appeal statement.

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).

The applicant was admitted to the United States at Calexico, California on March 28, 1988, as an S-9 applicant who established a preliminary claim to eligibility for temporary resident status as a special agricultural worker. The applicant was admitted for a period of 90 days in accordance with 8 C.F.R. 210.2(c)(4)(iii), and 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 included 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 of entry, the applicant signed a Service advisory statement (written in both English and Spanish) which outlined the procedures for filing a preliminary application. This statement reads, in pertinent part, "Do not make any changes on this application. If the information on the application is different from that on the supporting documents, you must be able to explain the difference to the immigration officer during the interview."

At the time of entry into the United States, the applicant's Form I-700 application indicated employment for 90 man-days for [REDACTED] from July 1985 to May 1986. In support of the claim, the applicant submitted a Form I-705 affidavit and a separate employment letter claiming 108 man-days employment for [REDACTED] in Yuma, Arizona from May 1, 1985 to May 1, 1986.

The supporting documentation submitted by the applicant, however, does not correspond to the claim on the I-700 application presented at the border. Specifically, the applicant submitted a claim of employment for an entirely different employer. The applicant failed to explain this discrepancy.

The director denied the application on May 28, 1991, because the applicant had severely diminished his credibility by revising his claim. On appeal, the applicant stated that he did not intend to claim employment for [REDACTED] then [REDACTED] but that his co-workers later told him that Mr. [REDACTED] was his boss. The applicant stated that he could provide proof from others that he worked for, indicating that he would do so as soon as he had a break from his current employment. To date, no additional documentation has been forthcoming.

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.)*.

The applicant submitted a significantly changed claim to eligibility without an adequate explanation, and has thereby raised serious questions of credibility which have not been overcome on appeal. 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.