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U.S. Citizenship
and Immigration
Services

L4

FILE:

Office: CALIFORNIA SERVICE CENTER

Date: **SEP 16 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 director denied the application because 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] under [REDACTED].

On appeal, the applicant reaffirms his claimed employment.

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 94 man-days of qualifying agricultural services for foreman Jesus Sais under farm labor contractor Kevin Leon from October 1985 to April 1986.

In support of the claim, the applicant submitted a Form I-705 affidavit and a separate employment letter, both signed by Jesus Sais.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. Specifically, [REDACTED] records do not reflect that [REDACTED] ever employed [REDACTED]. [REDACTED] records reflect [REDACTED] contracted to provide labor for a total of 19 days during the qualifying period.

On November 18, 1991, the applicant was advised in writing 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 does not contain a response to the notice.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application January 10, 1992. On appeal, the applicant reaffirms his claimed employment.

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.)*.

Service records indicate that [REDACTED] wrote the Service letters regarding his employment in agriculture, including the qualifying period May 1, 1985 to May 1, 1986.

In his letter to the Service dated December 21, 1989, [REDACTED] indicated that he was not a farm labor contractor, but rather a supervisor, who had been in agriculture 17 years and during that time had supervised hundreds of employees. He further stated that "I have no records of the persons I helped to get legalized other than personal knowledge". He goes on to state that from 1982 to 1989 he kept no records on the workers.

[REDACTED] has indicated that he has no records of the people for whom he signed legalization documents. [REDACTED] only worked for [REDACTED] for 19 days during the qualifying period. The applicant has not overcome this adverse evidence which directly refutes his claimed employment. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

According to 8 C.F.R. 210.3(b), the burden of proof is on the applicant until he has presented sufficient credible evidence which is amenable to verification and shows the extent of the claimed employment as a matter of just and reasonable inference.

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.