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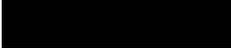
**U.S. Citizenship  
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FILE:



Office: TEXAS SERVICE CENTER

Date: JUL 18 2006

XLT-89-047-1059

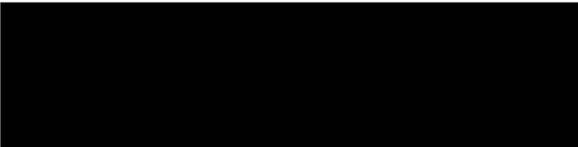
IN RE:

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:



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, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status as a special agricultural worker was denied by the Director, Southern 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 the fact that the applicant submitted employment evidence which reflected employment outside the qualifying period and because of the applicant's sworn statement that he had not worked in agriculture in the United States.

On appeal, the applicant submits a personal appeal statement and an employment affidavit.

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 performed 94 man-days of employment for [REDACTED] at [REDACTED] from May 1, 1985 to May 1, 1986. He did not provide evidence of this claimed employment.

In support of the claim, the applicant submitted a Form I-705 affidavit claiming 100 man-days of employment harvesting tobacco for [REDACTED] at [REDACTED] in Person, North Carolina from May 1 to September 25. The affidavit is signed by [REDACTED], who indicates that it reflects employment for the year 1986, which is outside of the May 1, 1985 to May 1, 1986 period.

In a statement made under oath before a Service officer, on November 29, 1988, the applicant stated that he had never worked in agriculture in the United States.

On September 9, 1993, the applicant was advised in writing of the Service's intent to deny the application because of the applicant's sworn statement and the fact that his claimed employment for [REDACTED] was outside the qualifying period. The applicant was granted thirty days to respond. In response, the applicant submitted a letter requesting that his application be reopened.

On January 4, 1994, the director denied the application based on the applicant's sworn statement and his claim of non-qualifying employment.

On appeal, the applicant states that he submitted the employment evidence he did because he changed employers in the spring of 1986 and since he worked for [REDACTED] more than 90 days he asked him for the papers. The applicant states that he signed the sworn statement admitting he never worked on a farm because he was confused about the chronology of his work experience. The applicant states that he worked at [REDACTED] in Labelle, Florida between May 1985 and August 1985, and part of 1986. The applicant described his

employment in Labelle, Florida stating that everyone knew him by the name [REDACTED]. The applicant submits an employment affidavit from [REDACTED] who states that the applicant worked with him between May 1985 and August 1985, and part of 1986. He states that the applicant worked under the alias [REDACTED] and they both worked at [REDACTED]. The affiant does not specify the specific dates or the number of man-days the applicant worked. The applicant submits a list of purported places he has worked from 1982 to September 1986. The list does not include the [REDACTED] that the applicant claimed he worked for on his I-700 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.), June 15, 1989.

The applicant initially claimed employment for [REDACTED], but never provided proof. Then he claimed to have worked for [REDACTED] in Person, North Carolina, employment that is outside the qualifying period. Upon being informed that his claimed employment was non-qualifying, he submits evidence of having been employed at [REDACTED] from May 1985 to August 1985 and for an unspecified part of 1986. The applicant submits an affidavit in support of his [REDACTED] employment. However, it does not specify the total man-days worked. It is significant that the record contains no documentary evidence from any individual associated with [REDACTED] to corroborate the applicant's claimed employment. Further, the applicant has given no explanation as to why he did not claim employment for [REDACTED] when he initially filed his application. The record does not contain any evidence, or even a claim that he worked a minimum of 90 man-days during the period May to August 1985 or in early 1986.

The applicant's explanation as to why he stated he had never worked in agriculture in the United States is not persuasive. The statement made under oath by the applicant raises questions regarding the credibility of the applicant's overall claim. The applicant has, therefore, 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.