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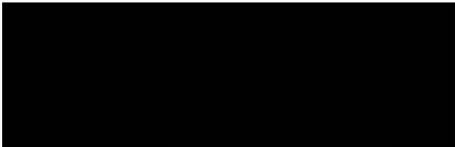
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U.S. Department of Homeland Security
20 Mass. Avenue, N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

LL



FILE:



Office: NEBRASKA SERVICE CENTER

Date: SEP 28 2006

XBI-89-008-4020

INRE:

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, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Northern Regional Processing Facility, 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 _____ on the Del Porto Farm,

On appeal, the applicant submits 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).

On the Form 1-700 application, the applicant claimed 98 man-days harvesting cherries, cucumbers and bell peppers for _____ at the Del Porto Farm in San Joaquin County, California, from May 1985 to August 1985. In _____, the applicant submitted a corresponding Form 1-705 Affidavit and a separate employment letter, both signed by _____.

In attempting to verify the applicant's claimed employment, the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS), acquired information which contradicted the applicant's claim. _____ co-owner of Del Porto Farms, stated to a CIS officer that Del Porto Farms does not employ _____ actors. Mark Del Porto informed the CIS that the farm grows only sugar beets, alfalfa, sunflowers and wheat. These are not the crops referenced on the applicant's supporting documents.

On November 22, 1991, the applicant was advised that additional information was needed in order to render a proper decision in his case. He was granted 30 days to respond.

In response, the applicant submitted the following:

A form letter affidavit from a friend, _____ who indicated that he met the applicant in 1985 when the applicant was working for farm labor contractor _____ picking fruits and vegetables from May 1985 to August 1985;

A form letter affidavit from the applicant's brother _____ who indicated that he knew the applicant in 1985 when the applicant was working for farm labor contractor _____ picking fruits and vegetables from May 1985 to August 1985 for 98 days in the State of California;

A form letter affidavit from a friend, _____ who indicated that he had known the applicant since 1986 when the applicant was working for farm labor contractor _____ picking fruits and vegetables from May 1985 to August 1985 for 98 days in the State of California;

A form letter affidavit from a friend, [REDACTED], who indicated [REDACTED] own the applicant since 1986 when the applicant was working for farm labor contractor [REDACTED] picking fruits and vegetables from May 1985 to August 1985 for 98 days in the State of California;

A form letter affidavit from a friend, [REDACTED], who stated that he had known the applicant since 1985 and that the applicant has been [REDACTED] good moral character.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on March 2, 1992. On appeal, the applicant reaffirms his claimed employment, stating that his brother also worked for [REDACTED] and that his brother's name is on the list of employees. The applicant submits photocopied evidence, previously submitted in response to the notice of intent to deny.

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.

On appeal, the applicant mentions a list that contains his brother's name and states that he and his brother worked under that same name. Just what list the applicant is referring to is unclear, and in the absence of any evidence from the applicant to corroborate the claim, the assertions of the applicant must be viewed as conjecture.

None of the affiants attesting on the applicant's behalf name any work site location where the applicant purportedly worked. Therefore, they do not corroborate the applicant's claimed employment at Del Porto Farms. Further, the affidavits from [REDACTED] clearly state that they have known the applicant since 1986 when the applicant first started work. The applicant claims employment in 1985. Therefore, these affiants could not have first hand knowledge of the applicant's purported employment as they indicate on their affidavits. Overall, the affidavits are questionable, of limited value, and will not serve to establish the applicant's claim to eligibility.

An official of Del Porto Farms has stated that enterprise does not employ farm labor contractors, nor grow the crops the applicant claimed to have harvested. The applicant has not addressed nor overcome this derogatory evidence, which was provided to him on August 2, 2006. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has failed to 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.