



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: **MAY 03 2007**
XSO 88 594 02084

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: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to
the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
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 Appeal 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 legacy Immigration and Naturalization Service (INS) relating to the applicant's claim of employment for [REDACTED] at [REDACTED] and [REDACTED] company.

On appeal, the applicant reasserted the veracity of his employment claim. The applicant stated that he was unable to locate his foreman, Armando or Mr. [REDACTED] and had no further documentation to present.

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 101 man-days of qualifying agricultural services for [REDACTED] Company in San Luis Obispo County, California during the qualifying period ending May 1, 1986.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter, both signed by [REDACTED] who was identified as the owner for [REDACTED]

In attempting to verify the applicant's claimed employment, the legacy INS acquired information which contradicted the applicant's claim. A Service officer attempted to contact [REDACTED] and [REDACTED] Company at the telephone number listed on the applicant's documentation. However, this number was disconnected, and directory assistance had no new listing for the company.

The Service officer then contacted the Bakersfield Farm Bureau; the San Luis Obispo County Assessor's office; the San Luis Obispo County Recorder and City Clerk; and the Paso Robles City Clerk. None of these organizations had any record of [REDACTED] and [REDACTED] company.

On June 6, 1991, the applicant was advised in writing of the adverse information obtained by the legacy INS, and of its intent to deny the application. The applicant was granted thirty days to respond. In response, the applicant requested a copy of the record of proceedings and additional time in order to obtain further documentation. The applicant reaffirmed his employment claim for [REDACTED] and asserted that he was having difficulty locating his former foreman, [REDACTED] and Mr. [REDACTED]

The director complied with the applicant's request for a copy of the record of proceedings on June 25, 1992.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on August 5, 1992. The applicant appealed, and his case was forwarded to the AAO for review. On appeal, the applicant reaffirmed his employment claim for [REDACTED] during the qualifying period.

Subsequently, the legacy INS discovered additional derogatory information which further undermined the credibility of the applicant's claim. Specifically, on December 30, 1987, the applicant was apprehended while attempting to enter the United States near Niland, California. In a Form I-213, Record of Deportable Alien, the

applicant admitted that he had never performed special agricultural employment during the qualifying period, and that he had submitted a fraudulent application for adjustment of status under section 210 of the Immigration and Nationality Act.

The applicant was advised of this additional derogatory information by the AAO on March 12, 1996, and granted thirty days to respond. The applicant, however, failed to respond to the notice.

It is noted that the applicant put forth a Freedom of Information Act request, which was complied with on November 14, 1996.

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. [REDACTED] E.D. Cal.).

The legacy INS, after contacting several government offices, has found no record of [REDACTED] and [REDACTED] Company in the San Luis Obispo area. This information indicates that the application is highly questionable, is not amenable to verification and, therefore, fails to meet the evidentiary requirements set forth in 8 C.F.R. § 210.3(b) and (c). The applicant has not produced any credible evidence to show that [REDACTED] and [REDACTED] Company engaged in agriculture in the San Luis Obispo area during the qualifying period. 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 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