



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: DEC 07 2009
XHP 88 538 1044

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

A handwritten signature in cursive script, appearing to read "Perry Rhew".

Perry Rhew
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 Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish that he performed 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]

On appeal, the applicant reaffirms his claim to have performed qualifying agricultural employment under the supervision of [REDACTED]

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, provided he is otherwise admissible under the provisions of section 210(c) of the Act and is 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 application, Form I 700, the applicant claimed to have performed the following employment for a single employer, farm labor contractor [REDACTED] 93 man-days hoeing, picking, pruning, and tying strawberries, raspberries, corn, pumpkins, cauliflower and cabbage for [REDACTED] at [REDACTED] in Oregon from May 15, 1985 to May 1, 1986.

In support of the claim, the applicant submitted a Form I 705 affidavit purportedly signed by [REDACTED]

In the course of attempting to verify the applicant's claimed employment, the Service acquired information that contradicted the applicant's claim. On April 13, 1990, as part of a plea agreement, [REDACTED] made a declaration to the United States Attorney's Office and the United States District Court at Portland, Oregon. On September 18, 1990, [REDACTED] made a declaration to the United States Attorney's Office and the United States District Court at Portland, Oregon. Both stated that they did employ approximately 30 people for 90 days or more during the requisite period. They submitted a list of those people's names and the applicant's name did not appear on either list. Both declared that approximately 100 people were employed for less than 90 days during the requisite period. They provided a list of those people's names and the applicant's name was not on the list. Both further declared that all other Forms I-705 signed by [REDACTED] and/or [REDACTED] are false.

On January 29, 1992, 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 applicant failed to respond to the notice.

The director concluded the applicant had not overcome the adverse information, and denied the application. On appeal, the applicant reiterated his claim of eligibility and requested a copy of the record of proceedings. He indicated he would supplement his appeal after receipt of a copy of the record of proceedings. The FOIA request was closed out on September 22, 2008 for failure to comply. [REDACTED]

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)*, Civil No. S-87-1064-JFM (E.D. Cal.).

The fact that [REDACTED] gave the Service a list of people who had worked during the requisite period and the applicant's name was not on the list and she admitted that she provided individuals with false affidavits, directly contradicts the applicant's claim. The applicant has not overcome this adverse evidence. As such, 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 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.