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U.S. Citizenship
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Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: APR 29 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. All documents have been returned to the office that originally decided 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 on appeal. The appeal will be dismissed.

The applicant appears to be represented; however, the organization is not authorized under 8 C.F.R. § 292.2(a) to represent aliens in immigration proceedings. Therefore, this decision will be sent to the applicant only.

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 Immigration and Naturalization Service (the Service) relating to the applicant's claim of employment for [REDACTED]

On appeal, the applicant explained that he could not challenge the denial because he had not yet seen the denial notice. He requested a copy of the record. Notation in the file indicates that his request was complied with. Nevertheless, the applicant has not furnished any further statement or evidence.

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 cut lettuce for 96 days for [REDACTED] at Sini (sic) Farm in Yuma, Arizona from October 1985 to January 1986.

In support of this claim, the applicant submitted a corresponding Form I-705 affidavit signed by [REDACTED] and a photocopied letter from [REDACTED] Bookkeeper of Senini Farming Company, affirming [REDACTED] employment there on a seasonal basis. On the Form I-705 "Senini" was misspelled as "Sinini."

In attempting to verify the applicant's claimed employment, the Service acquired information that contradicted the applicant's claim. On January 29, 1990, [REDACTED] gave a sworn statement before an officer of the Service. [REDACTED] stated that, on August 9, 1988, he had pled guilty to a document fraud charge stemming from his sale of employment documents. [REDACTED] admitted that "no one with an amnesty letter from me is eligible for amnesty through employment with me, and all my amnesty letters and affidavits are false."

The director attempted to advise the applicant in writing of the adverse information obtained by the Service, and of the Service's intent to deny the application. However, it is not clear that the applicant received the notice. The director later concluded that the applicant had not overcome the derogatory evidence, and denied the application. On appeal, the applicant, after evidently receiving the adverse information, has not responded.

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.).

after examining his records, admitted under oath that all employment verification letters signed by him are false. This directly contradicts the applicant's claim. The applicant has not overcome such derogatory evidence. 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.