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20 Mass, Rm. A3042, 425 I Street, N.W.
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U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: AUG 22 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. 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, 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 (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 [REDACTED] at Salinas Farms.

On appeal, the applicant submitted additional 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 100 man-days of qualifying agricultural employment for [REDACTED] from May 1, 1985 to May 1, 1986.

In support of his claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment statement, both signed by farm labor contractor [REDACTED] who indicated that the applicant was paid cash.

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. In a letter to the Service dated September 15, 1989, [REDACTED] one of the owners of [REDACTED] indicated that [REDACTED] had hired [REDACTED] only in November 1986 and May 1987. [REDACTED] did not employ Mr. [REDACTED] during the qualifying period. [REDACTED] added that all employees are always paid by check, never in cash.

On November 27, 1991, 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 record does not contain a response from the applicant.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on January 22, 1992. On appeal, the applicant submitted two identical in content form affidavits from [REDACTED]. Both affiants state that they became good friends with the applicant while working on the same crew. The applicant also submitted a residence affidavit.

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.)*.

The affidavits from purported co-workers [REDACTED] fail to state the circumstances by which they and the applicant worked together and are therefore of little probative value to the applicant's claimed employment for [REDACTED]. Further, according to one of the owners of [REDACTED] was not employed at the farm during the qualifying period, and therefore would have no knowledge of the applicant's

alleged employment at [REDACTED]. The applicant has not overcome such derogatory evidence which directly contradicts the applicant's claim. 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.