



U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: Nebraska Service Center

Date: AUG 25 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

PUBLIC COPY

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, Northern Regional Processing Facility, and is now before the Administrative Appeals Office 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 determination was based on information provided by [REDACTED] for whom the applicant claimed to have worked.

On appeal, the applicant simply indicated that he would provide evidence of work for the relevant years.

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 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 112 man-days of qualifying agricultural services for [REDACTED] at Toney's Berry Farm in Clackamas County, Oregon, from May 1985 to November 1985. In support of the claim, the applicant submitted a Form I-705 affidavit and a separate employment letter, both purportedly signed by [REDACTED]

The applicant also submitted a letter signed by Rick Benjamin of Rick Benjamin Orchards, indicating the applicant "has been working for me since February...." There is no indication as to what year that employment took place.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. In the United States District Court for the District of Oregon, [REDACTED] pled guilty to conspiracy to falsify and sell thousands of affidavits attesting to employment on his farm. As part of his plea agreement, [REDACTED] gave sworn statements in which they provided, based on their records and memory, a list of 31 names of individuals who did in fact perform at least 90 man-days of qualifying agricultural employment for them. They also provided another list of 101 names of individuals (again based on their memory and records) they believed worked for them, but for less than 90 days. The applicant's name does not appear on either list. Both [REDACTED] also stated that they have no other records, documentation or personal recollection which would support any other Form I-705 affidavit. Several thousand aliens are known to have filed applications claiming to have performed 90 or more man-days of employment for the [REDACTED]

On February 11, 1991 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, the notice was returned to sender.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application. On appeal, the applicant has not addressed the adverse evidence, or reiterated his employment claims for the

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 applicant has not contested the adverse evidence. In view of that, plus [REDACTED] guilty plea, and the fact that a massive number of applicants all claimed to have worked at Toney's Berry Farm at the same time, it is concluded the applicant has not established the performance of at least 90 days of employment for the [REDACTED]. Nor has he established that he worked at least 90 days for [REDACTED] during the qualifying period. 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.