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FEB 03 2005

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

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 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 relating to the applicant's claim of employment for [REDACTED] at Rio Bravo Ranch.

On appeal, the applicant indicates that he worked for [REDACTED] at Rio Bravo and at other locations, and that he worked for other contractors as well.

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 worked 94 man-days picking citrus fruits for farm labor contractor [REDACTED] at Rio Bravo Ranch in Kern County, California from November 1985 to March 1986. In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment statement, purportedly signed by [REDACTED]. These documents indicated the applicant's employment began on November 3, 1985 and ended on March 3, 1986.

In attempting to verify the applicant's claimed employment, the director acquired information that contradicted the applicant's claim. The payroll secretary of Nickel Enterprises, parent company of Rio Bravo Ranch, stated that [REDACTED] contract expired in January 1986 and that [REDACTED] did not provide any workers after that date. This information has since been corroborated by the operations manager of Nickel Enterprises, who asserted that [REDACTED] employment at Rio Bravo Ranch's **farming operations** ended January 15, 1986.

On February 18, 1992 the applicant was advised in writing of the adverse information, and of the director's intent to deny the application. The applicant was granted thirty days to respond. He replied by stating that during the period of November 1985 to March 1986 he worked on different ranches in the same county for [REDACTED]. He stated that even though [REDACTED] did not work after January 1986, he (the applicant) was still performing work at Rio Bravo until March 1986. He furnished three identical "fill-in-the-blank" affidavits from various individuals, each stating that she worked alongside the applicant (whom each referred to as him/her) at various fields including Rio Bravo. He also provided a brief that discussed evidentiary issues in a generic fashion, but did not contain any specifics regarding [REDACTED] and Rio Bravo.

The director concluded that the applicant's claim of employment was still not credible, and denied the application.

On appeal, the applicant submits another affidavit from an alleged coworker, on which the applicant's name was inserted in a blank and on which the applicant was later referred to as "she". The applicant reaffirms that he worked for [REDACTED] on different ranches and for other contractors.

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.).

Officials of Nickel Enterprises have stated that [REDACTED] did not work at Rio Bravo Ranch after January 15, 1986. While the applicant claims the employment went well beyond that date, he has not provided any independent evidence to establish that. In addition, the applicant and the affiants have claimed that he worked at other ranches, and for other contractors, but have failed to name them. Thus, these claims are unverifiable.

In a letter dated November 5, 1993, the operations manager of Nickel Enterprises informed the Service that, according to their records, [REDACTED] supplied labor for our farming operations at various times during the period May 1, 1985 through May 1, 1986 . . . Since (January 15, 1986), they were no longer used to provide labor service for Rio Bravo Ranch . . . they provided labor to Rio Bravo Ranch a total of 77 days, from May 1, 1985 to January 15, 1986."

The above letter indicates that Rio Bravo Ranch did, in fact, consist of more than one farming operation, and that [REDACTED] did provide labor for these operations. However, the credibility of the applicant's claim is undermined by [REDACTED] statement that [REDACTED] provided labor to Rio Bravo's farming operations *for less than 90 days during the qualifying period*, and that the [REDACTED] did not provide any labor to the farm after January 15, 1986.

Even if it were to be concluded that the applicant did work for [REDACTED] it could not be concluded that he worked at least 90 days for another reason. The period from November 3, 1985 to January 15, 1986 does not encompass 90 days.

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, he 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.