



U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: APR 06 2006

XFR-88-189-3058

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

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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 regarding the applicant's claim of employment for [REDACTED]

On appeal, the applicant reaffirmed his claimed employment and 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 93 man-days of employment at [REDACTED] in Santa Clara, California from May 20, 1985 to August 1985.

In support of his claim, the applicant submitted a corresponding Form I-705 affidavit signed by [REDACTED] indicated that he was a foreman for [REDACTED]

In attempting to verify the applicant's claimed employment, the Immigration and Naturalization Service, or the Service (now, Citizenship and Immigration Services, or CIS) acquired information which contradicted the applicant's claim. Specifically, [REDACTED] personnel manager for [REDACTED] provided the Service with a letter that stated [REDACTED] were contracted by [REDACTED] for only 20 man-days in 1985, and not at all during 1986. The letter also stated that there were no employment records for an [REDACTED]

On October 28, 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 contains no response from the applicant to the Service's notice.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on December 18, 1991.

On appeal, the applicant reaffirmed his claimed employment. The applicant submitted a photocopied letter from [REDACTED] stating that the applicant worked for [REDACTED] from May 20, 1985 to August 31, 1985. The letter appears to have been photocopied many times and has had the applicant's name added to a blank space in the document. [REDACTED] overlaid the letter with a copy of a 1985 Wage and Tax Statement indicating that [REDACTED] paid [REDACTED] \$1,500 during 1985. The applicant also submitted two additional photocopied employment statements where, in both instances, the applicant's name was again added to an already existing document in an attempt to establish his employment for foreman [REDACTED]. None of the letters indicates that they were written with the specific intent of verifying this applicant's employment.

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.)*.

At no time during the application process has the applicant submitted any documentation, verified by an official at [REDACTED] establishing that [REDACTED] work for [REDACTED] for more than the 20 man-days. Therefore, it cannot be concluded that the applicant worked 93 man-days at [REDACTED]. The applicant has not claimed employment for [REDACTED] at any other ranch or farm. The applicant has failed to overcome this adverse evidence, which directly contradicts his employment claim. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has, therefore, failed to credibly 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.

In addition, it is noted that the applicant was arrested on July 31, 1999 in Fresno, California and was later convicted of the offense of Violation of Custody Decree. He was also arrested on December 3, 1993 in Madera, California for Inflict Corporeal Injury on Spouse/Cohabitant and for Contempt of Court. The dispositions of these charges are unknown. The question of the applicant's possible ineligibility on criminal grounds need not be resolved as the applicant is ineligible for temporary residence as explained above.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.