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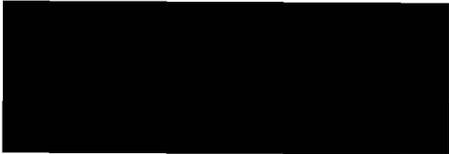


FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: APR 03 2007  
XSO 88 552 02020

IN RE: Applicant: [REDACTED]

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:



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. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, remanded by the Legalization Appeals Unit (LAU), now the Administrative Appeals Office (AAO). The Director, California Service Center, reopened and denied the application again. The matter is now before the AAO on appeal. The appeal will be dismissed.

The directors 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 legacy Immigration and Naturalization Service (INS) relating to the applicant's claim of employment for [REDACTED] at [REDACTED]

On appeal from the initial decision, the applicant reaffirmed the veracity of his employment claim for [REDACTED]. The applicant asserted that he never received any notices.

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 performed 119 man-days laboring in strawberries for [REDACTED] in Santa Barbara County, California from April 14, 1985 to October 14, 1985.

In support of his claim the applicant submitted a Form I-705 affidavit and a separate employment statement, both purportedly signed by [REDACTED]

In response to a Form I-72 dated January 6, 1989, the applicant submitted an affidavit purportedly signed by [REDACTED] indicating that he had been associated with [REDACTED] since 1979 as a grower and sharecropper of strawberries.

On July 31, 1991, the director denied the application because it was determined that the applicant had failed to overcome the adverse evidence regarding his employment claim for [REDACTED]. The case was subsequently forwarded to the LAU for review. The record, however, did not contain a Notice of Intent to Deny, and on March 17, 1999, the LAU remanded the case for either the inclusion or issuance of said notice.

On September 7, 2001, the director withdrew the previous decision, reopened the proceedings, and issued a Notice of Intent to Deny. The applicant was advised that on January 29, 1990, a Service officer interviewed the office manager for [REDACTED]. That official indicated that [REDACTED] employed "not more than two (2) to three (3) individuals at any given time . . . (and these) individuals were continuously being replaced by newly hired employees." [REDACTED] had sub-leased 2.29 acres of farm land in 1985, and 2.1 acres in 1986. The farm's office manager, speaking from 22 years of experience in farming, stated that "there is only a need for two (2) persons per acre of land in strawberry farming."

Furthermore, in a sworn affidavit dated July 27, 1989, [REDACTED] stated that he had been advised that his signature had been forged on employment documents, and that he had never authorized anyone to sign such documents in his name. [REDACTED] further stated that "(a)ny document which purports to bear my signature in reference (to) any INS application should therefore be regarded as null and void."

The applicant was granted thirty days to respond. In response, counsel asserted, in part:

From May 1, 1985 through May 1, 1986 he [the applicant] was living in Reno, Nevada. He also, during that year, went to California for the strawberry harvest. He work [sic]for [REDACTED] doing contract labor.

We realize that the reputation of [REDACTED] has been brought into question, we feel that the proof that [the applicant] was living in the United States during the critical years should help his application. I am enclosing check stubs from Deluxe Laundry in Reno, Nevada for April and May of 1986 and a statement from the Social Security Administration indicating that in 1986 he earned over \$2,000 at Deluxe Laundry, Inc. [the applicant] started working there in approximately April of 1986. If [sic] was before that that he was working in the strawberries in California.

Counsel submitted: 1) seven earnings statements from Deluxe Laundry, Inc. addressed to the applicant for the pay periods ending April 6, 1986 through May 24, 1986; 2) an affidavit from [REDACTED] of Reno, Nevada, who indicated that the applicant resided in his home in Reno from January 1983 to January 1986; and 3) a letter dated October 7, 2001 from the Social Security Administration, reflecting the applicant's 1986 earnings at Deluxe Laundry Inc. in Reno, Nevada.

The director determined that neither counsel's statement nor the documentation submitted overcame the adverse evidence, and denied the application on February 22, 2002. The notice was sent to the applicant and counsel at their addresses of record.

The applicant or counsel has not addressed the subsequent Notice of Decision or submitted any evidence to overcome the director's findings.

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.).

[REDACTED] the applicant's purported employer, has denounced employment affidavits in his name as forgeries and declared all such documents to be "null and void." An official of [REDACTED] has indicated that [REDACTED] only hired small numbers of workers who were frequently replaced. The applicant has not overcome this adverse information which directly contradicts his 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 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.

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