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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

APR 28 2005

IN RE:

Applicant:



PETITION: 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 the matter 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 that he/she performed at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on adverse information acquired by the Service regarding the applicant's claim of employment for [REDACTED]

On appeal, the applicant stated that he worked as an agricultural worker for more than one employer and that he was always paid in cash.

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 Form I-700 application, the applicant claimed 110 man-days thinning and weeding watermelons and cantaloupe in Yuma County, Arizona, for [REDACTED] from May 1, 1985 to May 1, 1986. In support of the claim, the applicant submitted a Form I-705 affidavit and separate employment statement, both purportedly signed by Mr. [REDACTED]

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. [REDACTED] and four co-defendants were convicted by jury trial of seventeen felony counts of Conspiracy, Aiding and Abetting, and the Creation and Supplying of False Application Documents for Adjustment of Status in U.S. District Court, Phoenix, Arizona, CR 88-153-PHX-RGS. In addition, a Service investigation revealed that [REDACTED] the applicant's purported employer, did not employ or supervise agricultural employees in any capacity during the qualifying period. Furthermore, Yuma County tax and real estate records indicate that there was no agricultural land in Yuma County that was owned or operated by [REDACTED]

On November 18, 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 applicant did not respond.

The director determined that the applicant had failed to overcome the adverse evidence, and denied the application on January 6, 1992. On appeal, the applicant stated that he worked for more than one employer and that he was always paid in cash. The applicant indicated that he would contact those other, unnamed, employers to acquire evidence to support his claimed eligibility. To date, the applicant has not submitted any evidence of any additional employment in support of his claimed employment in agriculture.

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.).

Although the applicant claimed additional employment on appeal, he has submitted no documentary evidence from any other employer for whom he purportedly worked during the qualifying period. Therefore, the applicant's claim is unsupported. Further, the adverse information acquired by the Service regarding the

applicant's alleged employment for [REDACTED] directly contradicts the applicant's claim. The applicant has not addressed nor overcome such derogatory evidence. Thus, 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.