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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services



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FILE: [REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: DEC 13 2005

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: 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

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, reopened and again denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (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 Service relating to the applicant's claim of employment for Jesus Camacho at Rio Bravo Ranch.

On appeal from the initial decision, the applicant submitted a personal statement and requested copies of the Service's 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 worked 101 man-days picking citrus fruits for farm labor contractor [REDACTED] at [REDACTED] h in Kern County, California from May 1985 to May 1986.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit purportedly signed by Jesus Camacho.

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which cast doubt on the credibility of the applicant's documentation. The signatures on the applicant's supporting documents are visibly and significantly different from authentic exemplars obtained by the Service.

On September 15, 1992, 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 does not contain a response to the notice from the applicant.

Subsequently, the application was denied. The record does not contain a copy of that Notice of Decision. On appeal from that decision, the applicant stated that she never received the Service's notices. On November 23, 1992, the applicant was sent copies of the notices. Subsequently, the applicant submitted additional documentation consisting of a personal statement, a statement from Luis Morales Aguilar attesting to the applicant's employment in agriculture during the period May 1985 to December 1985 and, a letter from a friend, [REDACTED]

In a further attempt to verify the applicant's claimed employment, the Service acquired additional information which contradicted the applicant's claim. The payroll secretary of Nickel Enterprises, parent company of Rio Bravo Ranch, stated that Mr. [REDACTED] contract expired in January 1986 and that Mr. [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 12, 1999, 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. In response to the Service's notice, the applicant submitted an employment verification letter purportedly signed by [REDACTED] [REDACTED] who indicated that the applicant worked at [REDACTED] and [REDACTED]. The applicant also

submitted a letter from [REDACTED] who stated that the applicant worked at [REDACTED] and [REDACTED] during 1985 and 1986. Mr. [REDACTED] stated that he was the applicant's supervisor during that time. The applicant also submitted a revised Form I-705 affidavit indicating that from January 3, 1985 to May 1, 1986, the applicant worked at Anxious Acres.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on September 25, 2004. The record does not contain a response to that notice from the applicant.

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 signature discrepancy noted by the director calls into question the origin and authenticity of the applicant's documentation. The applicant has not addressed nor overcome this derogatory evidence. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

Further, an applicant raises serious questions of credibility when asserting a different place of employment in response to the Notice of Intent to Deny. In such instances, the Service may require credible evidence to support the new claim as well as a complete plausible explanation concerning the applicant's failure to advance this claim initially. The instructions to the application do not encourage an applicant to limit her claim; rather they encourage the applicant to list multiple claims as they instruct her to show the most recent employment first.

The applicant's claim to have been employed at [REDACTED] was first brought to the Service's attention when the applicant responded to the Notice of Intent to Deny. The applicant offers no account as to why this entirely different claim to eligibility was not advanced on the application or at the interview. The very purpose of the Form I-700 application is to allow the applicant to claim the qualifying agricultural employment which entitles him to the benefits of status as a special agricultural worker.

Larger issues of credibility arise when an applicant claims employment which is called into question through Service investigation, and later attempts to establish eligibility by amending her employment claim in an attempt to satisfy the Notice of Intent to Deny. The applicant's advancement of a new employment claim does not address, resolve, or diminish the credibility issues raised by the adverse evidence regarding the applicant's initial claim. Therefore, the applicant's overall credibility remains in question. For this reason, the applicant's new claim of employment at [REDACTED] will not serve to fulfill the qualification requirements necessary for status as a special agricultural worker.

The applicant has failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the twelve-month 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.

