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**U.S. Citizenship
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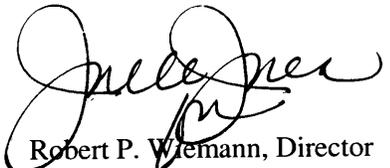
IN RE: Applicant: 

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

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), and denied again by the Director, California Service Center. The matter is now before the AAO on appeal. The appeal will be dismissed.

The center director initially denied the application because the applicant failed to respond to the notice of intent to deny. On appeal, the applicant submitted additional employment documentation.

The director finally 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 provided to the Service by [REDACTED] for whom the applicant claimed to have worked. The appeal taken from the previous decision of denial still being in effect, the applicant submitted copies of documentary evidence, previously submitted.

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 103 man-days of qualifying agricultural employment for [REDACTED] in Santa Barbara County, California from May 6, 1985 to December 17, 1985.

In support of the claim, the applicant submitted a Form I-705 affidavit and a pre-printed form employment letter, purportedly signed by [REDACTED]

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. On July 30, 1989, [REDACTED] stated in a letter to the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS) that he had never been a farm labor contractor, but rather was a sharecropper, foreman, and supervisor at various farms in the [REDACTED] Valley in Southern California. [REDACTED] stated that his signature had been falsified on employment documents, and submitted to the Service a list of 267 names belonging to the individuals who had actually worked for him or with him. The applicant is not named on this list.

On March 22, 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 does not contain a response from the applicant.

The director denied the application on May 14, 1991. On appeal, the applicant submitted an unsigned letter in which he stated that he is submitting a letter from [REDACTED] stating that his name should be included on the list of employees who worked for him [REDACTED]. The applicant submitted a form affidavit purportedly signed by [REDACTED] attesting to the applicant's employment, stating that: "Also his name must be in the list I sent you." After this sentence, is handwritten "My list is incorrect." The applicant submitted another form affidavit purportedly signed by [REDACTED] attesting to the applicant's employment.

On October 28, 1993, the case was remanded by the AAO and on October 1, 2004, the application was reopened for a new decision denying the application based on the adverse evidence. In response to that decision, the applicant submitted photocopies of the evidence previously submitted on appeal.

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 affidavit regarding the applicant's employment purportedly signed by [REDACTED] in which [REDACTED] states that the applicant's name must be on the list, is a form affidavit photocopied many times. The affidavit contains a blank space left for the insertion of the applicant's name. In the affidavit, [REDACTED] does not indicate why he is now purportedly claiming that his list is incomplete or why he had not submitted a revised list to CIS if his list were, in fact, incomplete. Based on the fact that the document is a photocopy many times removed from the original and the fact that the document was not specifically intended for this applicant, the document cannot be deemed credible and therefore, is not sufficient to overcome the adverse evidence. The other employment affidavit, dated April 18, 1991, is also a form affidavit reproduced many times, with a blank space for the insertion of the applicant's name. Copies of this letter have existed since 1989. As such, the letter cannot be deemed corroborative evidence sufficient to establish the applicant's claimed employment.

The applicant is not named on the list of employees provided by [REDACTED]. The applicant has not overcome this adverse evidence, which directly contradicts the applicant's 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.