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U.S. Citizenship
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FILE: [REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: JUN 30 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, and is now before the Administrative Appeal 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 acquired by the Service relating to the applicant's claim of employment for Valentine Gonzales at Tagus Ranch.

On appeal, the applicant requested a copy of his legalization file. The Immigration and Naturalization Service (INS), now Citizenship and Immigration Service (CIS) complied with the request on August 17, 1993. The applicant submitted photocopied of 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 119 man-days of qualifying agricultural employment for [REDACTED] the Tagus Ranch in Tulare County, California.

In support of his claim, the applicant submitted an I-705 affidavit and a separate employment letter, both purportedly signed by [REDACTED] who stated that she was a farm labor contractor.

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. On March 20, 1990, a Service agent telephoned the number given for [REDACTED]. The number did in fact belong to a [REDACTED] however, [REDACTED] indicated that she owned a trailer court, that she had the same telephone number for twelve years, and that she had never been involved in agriculture. A Service agent attempted to contact the Tagus Ranch at the telephone number provided for the ranch on the applicant's I-705 affidavit. It was discovered that this telephone number belonged to the Tagus Ranch Motel. An official of the motel stated in a letter to the Service that the enterprise had never been involved in agriculture.

[REDACTED] of the Tagus Ranch Packing Company in Visalia, California stated in a letter that the company had never heard of [REDACTED] and that she had never been employed or hired as a contractor by the company. She provided the Service with an employee list from the qualifying period. The director determined that the applicant was not named on this employee list.

On August 9, 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 concluded the applicant had not overcome the derogatory evidence, and denied the application. On appeal, the applicant submitted photocopied of documentation, previously submitted. The applicant stated that he was unable to contact his former employer due to her change of address and telephone number.

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.).

Service inquiry has revealed that [REDACTED] has never been a farm labor contractor, and that the telephone number of the applicant's claimed place of employment belongs in fact to a similarly-named motel. The Tagus Ranch Packing Company has denied any knowledge of [REDACTED]. The record contains no evidence of contact with any farm or employer which would lend support to the applicant's claim. This derogatory evidence, for which the applicant has provided no credible explanation or rebuttal, indicates that the application is questionable, is not amenable to verification and, therefore, fails to meet the evidentiary requirements set forth in 8 C.F.R. 210.3(b) and (c). Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has failed to establish credibly 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.