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U.S. Citizenship
and Immigration
Services

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Date: MAR 14 200

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER

IN RE: Applicant: [REDACTED]

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:

[REDACTED]

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 (SAW) was denied by the Director, Western Service Center. The matter is before the Administrative Appeals Office 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. The decisions were based on evidence adverse to the applicant's claim of employment for [REDACTED].

On appeal, the applicant reaffirmed his claimed employment. The applicant stated that he had other employment for which he did not submit documentary evidence because he was advised not to submit additional evidence.

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, California from May 1985 to December 1985.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate form employment verification letter, both of which were purportedly signed by [REDACTED]. In addition, the applicant submitted a letter of non-qualifying employment for [REDACTED] a letter regarding his union affiliation and four residence affidavits.

On April 26, 1994, in a Notice of Intent to Deny, the Director, Western Service Center, noted that the Service possessed evidence adverse to the applicant's employment claim. Specifically, on July 30, 1989 [REDACTED] stated in a letter to the Service that he had never been a farm labor contractor, but rather was a sharecropper, foreman, and supervisor at various farms in the Santa Maria 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. The applicant was accorded 30 days to respond to that evidence.

In response, the applicant submitted two form affidavits from [REDACTED] and [REDACTED] both of whom state that they went to visit the applicant at [REDACTED] and that they could personally testify that the applicant worked in the fields. The affiants did not indicate when the applicant worked in the fields or the length of time the applicant worked in the fields. Therefore, the affidavits are of little probative value to the applicant's claim to eligibility.

The director, Western Service Center, found that the applicant had not overcome the adverse evidence and denied the application on October 19, 2004. On appeal, the applicant reaffirmed his claimed employment. The applicant stated that he had other employment for which he did not submit documentary evidence because he was advised by a notary not to submit additional evidence. The applicant did not submit any additional evidence 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).

No specific type of documentation is required to sustain the applicant's burden of proof. However, the documentation must be credible. Documents which appear to have been forged, or otherwise deceitfully created or obtained, are not credible. United Farm Workers (AFL-CIO) v. INS, Civil No. S-87-1064-JFM (E.D. Cal.).

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.