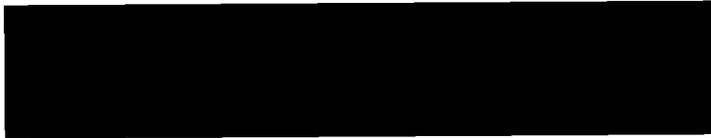


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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: OCT 20 2006  
XID 88 078 01040

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:



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. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center. The matter was remanded by the Legalization Appeals Unit (LAU), now the Administrative Appeals Office (AAO). The application was reopened and denied again by the Director, California Service Center. The matter is now before the 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 legacy Immigration and Naturalization Service (legacy INS) relating to the applicant's claim of employment for [REDACTED]

On appeal, from the initial decision, the applicant asserted that he had not received any correspondence from the legacy INS.

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 127 man-days of qualifying agricultural services for farm labor contractor [REDACTED] from May 1985 to October 1985 in Bakersfield, California. In support of his claim, the applicant submitted an employment letter purportedly signed by [REDACTED]

On October 30, 1991, the applicant was advised in writing of the adverse information obtained by the legacy INS and of the legacy INS intent to deny the application. Specifically, the applicant was advised that the signature of [REDACTED] and her standard format letter did not appear to match the exemplars the legacy INS had in its possession. The applicant was granted thirty days to respond. The notice, however, was returned by the post office as undeliverable.

The director concluded the applicant had not overcome the derogatory evidence and denied the application. Pursuant to the applicant's statement on appeal, the director, on July 22, 1992, sent courtesy copies of the Notice of Intent to Deny and Notice of Decision to the applicant and his representative at their addresses of record. In response, the applicant's questioned the director's judgment regarding his statement that the affiant's signature "does not appear to match exemplars."

On September 19, 1994, the LAU remanded the case for inclusion of the adverse evidence used as the basis for the denial of the application along with a forensic analysis of the affiant's signature. On September 8, 2004, the director withdrew the previous decision and reopened the proceedings for review. The applicant was advised that [REDACTED] had provided the legacy INS with an exemplar of her signature and company letterhead in order to compare with documents that were deemed to be fraudulent. [REDACTED] indicated that the stamp used on the employment letter provided by the applicant did not belong to her and that she had never seen the stamp before. The applicant was also advised that a comparative analysis was conducted on August 4, 1999 and as a result of the forensic analysis it was determined that the employment letter was not signed by [REDACTED]. The applicant was granted thirty days to respond. The applicant, however, failed to respond to the notice. Accordingly, on February 2, 2004, the director denied the application.

The applicant has not addressed the subsequent Notice of Decision or submitted any evidence to overcome the director's findings.

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 derogatory information obtained by the legacy INS regarding the applicant's claim of employment for [REDACTED] directly contradicts the applicant's claim. The applicant has not overcome such derogatory evidence. 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.