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**U.S. Citizenship
and Immigration
Services**

LL

FILE: [REDACTED]
XNK 88 229 00087

Office: CALIFORNIA SERVICE CENTER

Date: MAY 03 2007

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. 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, reopened and denied again by Said Director. The matter is now before the Administrative Appeals Office 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 (INS) relating to the applicant's claim of employment for [REDACTED]

On appeal from the initial decision, the applicant reasserted the veracity of his employment claim for [REDACTED]. The applicant submitted an additional employment letter from Mr. [REDACTED]

The applicant had neither addressed the subsequent Notice of Decision nor provided any evidence to overcome the director's findings.

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 picked grapes for [REDACTED] for 58 man-days at [REDACTED] Farms from May 1985 to August 1985 in Maricopa County, California, and for 45 man-day at [REDACTED] Ranch from August 1985 to October 1985 in California.

In support of this claim, the applicant submitted a corresponding Form I-705 affidavit and an employment letter signed by [REDACTED]. The affiant listed the same telephone number for [REDACTED] Farm and [REDACTED] Ranch.

In attempting to verify the applicant's claimed employment, the legacy INS acquired information which contradicted the applicant's claim. Specifically, the telephone information services in Maricopa, Arvin and Kern Counties in California indicated that there was no listing for a [REDACTED] Ranch as of August 14, 1991. On August 15, 1991, the Bakersfield/Kern County Assessors Office was contacted in order to verify the existence of [REDACTED] Ranch. [REDACTED] Supervisor of Agricultural Business and Appraisals checked their records and stated that there has never been a [REDACTED] in either Kern County or Maricopa County, California.

In addition, in a letter dated November 28, 1989, [REDACTED] co-owner of [REDACTED] Farms indicated that [REDACTED] was employed a farm labor contractor during May 1985 only, and returned to [REDACTED] Farms in 1986 to work as a foreman. It is noted the applicant did not claim to have worked there in 1986. Therefore, the *maximum* days the applicant could have worked for Mr. [REDACTED] at [REDACTED] Farms was 31 days.

On July 6, 1995, the applicant was advised in writing of the adverse information obtained by the legacy INS, and of its intent to deny the application. 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 on August 11, 1995. The notice was returned by the post office as "moved left no address."

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. [REDACTED] (E.D. Cal.).

The derogatory information obtained by the legacy INS regarding Rumaldo Cerda 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 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.