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U.S. Citizenship
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Services

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FILE:

XBI 89 627 3035

Office: NEBRASKA SERVICE CENTER

Date:

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. All documents have been returned to the office that originally decided 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, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Northern Regional Processing Facility, and is now before the Administrative Appeals 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 regarding the applicant's claim of employment for farm labor contractor [REDACTED]

On appeal, the applicant reiterates his claim that he performed at least 90 man-days qualifying agricultural employment during the requisite period.

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 18 man-days picking strawberries at [REDACTED] in June 1985, 58 man-days picking blueberries at [REDACTED] and 19 man-days picking bell peppers at [REDACTED] a total of 95 man-days of qualifying agricultural employment.

In support of the claim, the applicant submitted a Form I-705 affidavit from farm labor contractor [REDACTED] indicated that the applicant worked for her for 18 days picking strawberries at [REDACTED] during the period from June 11, 1985 to June 28, 1985; for 58 days picking blueberries at R-J Blueberries in [REDACTED] during the period from July 2, 1985 to September 7, 1985; and for 19 man-days picking bell peppers at [REDACTED], during the period from September 17, 1985 to October 8, 1985.

In attempting to verify the applicant's claimed employment, the Immigration and Naturalization Service, or the Service (now, Citizenship and Immigration Services, or CIS) acquired information that contradicted the applicant's claim. Specifically, [REDACTED] told a Service officer that [REDACTED] only worked at [REDACTED] during the month of June 1985. If the applicant's claim that he worked for [REDACTED] from September 17, 1985 to October 8, 1985 is disallowed, the applicant has established only 76 man-days of qualifying agricultural employment during the requisite period.

On November 14, 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. In response, the applicant advanced a revised claim that he also worked for Pleasant Valley Vegetable Co-op in Oxnard, California in 1985. In support of his claim, the

applicant submitted an un-notarized employment verification document dated November 26, 1991 that was signed by [REDACTED] Personnel Clerk at Pleasant Valley Vegetable Co-op. [REDACTED] stated that the applicant "is presently employed by Pleasant Valley Vegetable Co-op in the position of lettuce harvester. Since January 1, 1985 to May 30, 1985." However, Ms. [REDACTED] failed to specify the number of man-days the applicant worked at Pleasant Valley Vegetable Co-op during that period.

The director denied the application because the applicant had not overcome the derogatory evidence regarding his claim of employment for [REDACTED] at [REDACTED], and the applicant's claimed employment for Pleasant Valley Vegetable Co-op took place outside the qualifying period.

On appeal, the applicant reiterates his claim that he performed at least 90 man-days of qualifying agricultural employment during the requisite period. He points out that the period from May 1, 1985 to May 30, 1985 falls within the qualifying period and asserts that his employment for Pleasant Valley Vegetable Co-op during that period brings his total number of man-days of qualifying agricultural employment to more than the required 90 man-days. The applicant requests that his case be reviewed and his application granted.

The applicant has failed, first in response to the request for additional evidence and again on appeal, to submit any evidence to overcome the adverse information regarding his claim of qualifying agricultural employment for [REDACTED] during the period from September 17, 1985 to October 8, 1985.

The applicant, in response to the request for additional evidence, advanced a revised claim of qualifying agricultural employment for Pleasant Valley Vegetable Co-op in Oxnard, California, during the period from January 1, 1985 to May 30, 1985.

It is noted that the applicant's claim to have performed agricultural employment for Pleasant Valley Vegetable Co-op was introduced into these proceedings only *after* damaging information had been obtained regarding the applicant's original claim of having worked solely for [REDACTED]. An applicant raises questions of credibility when asserting a substantially revised claim to eligibility for a benefit that can only be granted if the revised claim is accepted as valid. In such instances, Citizenship and Immigration Services may require credible evidence to support the substantially revised claim as well as a complete explanation concerning the applicant's failure to advance this claim initially. The very purpose of the Form I-700 application is to allow the applicant to claim the qualifying agricultural employment that entitles him to the benefits of status as a special agricultural worker. The applicant's explanation that he failed to list his employment for Pleasant Valley Vegetable Co-op on the Form I-700 because he thought his employment claim for [REDACTED] was sufficient to establish his eligibility for temporary resident status is not sufficient.

Larger issues of credibility arise when an applicant claims employment that is called into question through a Service investigation, and later attempts to establish eligibility by amending his employment claim in an attempt to establish eligibility. The applicant's advancement of a

new employment claim does not address, resolve, or diminish the credibility issue raised by the adverse evidence as regards the applicant's initial claim. Therefore, the applicant's overall credibility remains in question. For this reason, the applicant's new claim of employment at Pleasant Valley Vegetable Co-op will not serve to fulfill the qualification requirements necessary for status as a special agricultural worker.

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 applicant's claim of 19 man-days of qualifying agricultural employment for farm labor contractor [REDACTED] at [REDACTED] Farm during the period from September 17, 1985 to October 8, 1985 is not credible because [REDACTED] informed the Service that [REDACTED] only worked at [REDACTED] Farm during the month of June 1985. The applicant has failed to overcome this adverse evidence, which directly contradicts his employment claim. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

Furthermore, the applicant's revised claim of agricultural employment at Pleasant Valley Vegetable Co-op during the period from May 1, 1985 to May 30, 1985 raises questions of credibility regarding his claim.

The applicant has, therefore, 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.