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U.S. Citizenship
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FILE:

[REDACTED]
XOP-89-049-4012

Office: TEXAS SERVICE CENTER

Date: AUG 18 2006

IN RE:

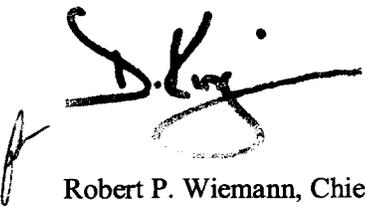
Applicant: [REDACTED]

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:

[REDACTED]
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, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Texas Service Center, 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 appear and be fingerprinted, and failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period. This was based on adverse information acquired by the Service relating to the applicant's claim of employment for Alephonia Davis.

On appeal, the applicant submits a personal statement.

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 102 man-days of agricultural employment picking vegetables and beans for [REDACTED] at Johnson Farm in Dade County, Florida from November 1985 to February 1986.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit purportedly signed by [REDACTED]

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which cast doubt on the credibility of the applicant's documentation. The purported signature of [REDACTED] on the applicant's supporting document was found by forensic analysis not to match the genuine exemplars obtained by the Service.

During her interview on March 17, 1989, the applicant signed a handwritten note indicating that she wished to withdraw her application. Subsequently, the applicant claimed that she never intended withdrawing her application and requested a second interview. Thereafter, the case was reopened even though no decision had been rendered and the applicant was interviewed again on January 26, 1993. During that interview, the interviewing officer noted that the applicant was unsure of the contractor's name, where the farm was located or the crops she worked with. The interviewing officer informed the applicant that the signature of [REDACTED] on her Form I-705 was determined by forensic analysis to be fraudulent.

On September 2, 2005, the applicant was requested to submit additional evidence to show that she had performed 90 man-days of qualifying employment. To date, the applicant has made no statements, nor has she submitted any additional documentation in support of her claimed eligibility.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on December 7, 2005. The applicant has not responded to the denial. Earlier, in a premature appeal, she just referred to what happened during her interview. She has not responded further.

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.), June 15, 1989.

The signature discrepancy noted by the director in his decision calls into question the origin and authenticity of the applicant's documentation. The applicant has not acknowledged or addressed this derogatory evidence. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

As of March 29, 1998, applicants for Temporary Resident Status as a Special Agricultural Worker are required to be fingerprinted at a USCIS Application Support Center or USCIS approved Designated Law Enforcement Agency.

On August 15, 2005, the applicant was requested to appear at the U.S. Citizenship and Immigration Services (USCIS) office in Davie, Florida during the 90-day period beginning August 29, 2005, to be fingerprinted. The applicant failed to appear. 8 C.F.R. § 103.2(b)(14) states that an application may be denied if an applicant fails to submit evidence which precludes a material line of inquiry.

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, and she did not appear for fingerprinting. 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.