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U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536



File:

Office: California Service Center

Date: AUG 18 2003

IN RE: Applicant:

Application: Application for Temporary Resident Status pursuant to Section 210 of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT: SELF-REPRESENTED

PUBLIC COPY

INSTRUCTIONS:

Attached is the decision rendered on your appeal. 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, the Service Center will contact you. 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 was initially denied by the Director, Western Service Center, and then remanded by the Administrative Appeals Office (AAO). The case was reopened and denied again by the Director, California Service Center, and is now before the AAO on appeal. The appeal will be dismissed.

The application was initially denied 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 Service (now the Bureau) relating to the applicant's claim of employment for [REDACTED] at Seigo Kotake & Sons farm.

On appeal from the initial denial, the applicant reaffirmed his claim of employment for [REDACTED]. The applicant submitted three affidavits in support of his appeal.

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 Immigration and Nationality Act (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 an unspecified number of man-days from January 6, 1986 to July 1986, picking strawberries for [REDACTED] at Seigo Kotake & Sons farm. The applicant also indicated that he had worked under the name [REDACTED] utilizing the Social Security number [REDACTED].

In support of the claim, the applicant submitted a Form I-705 affidavit and a separate employment letter, both purportedly signed by [REDACTED]. The Form I-705 indicated that the applicant picked strawberries for 140 man-days from January 1986 to July 1986. Both the Form I-705 affidavit and the separate employment letter also reflect that the applicant worked under the name [REDACTED] utilizing the Social Security number [REDACTED].

In the course of attempting to verify the applicant's claimed employment, the Bureau acquired information which cast doubt on the credibility of the applicant's documentation. The purported signatures of [REDACTED] on the applicant's supporting documents are visibly and significantly different from authentic exemplars of [REDACTED] signature obtained by the Bureau.

On April 28, 1992, the Bureau advised the applicant in writing of the adverse information obtained by the Bureau, and of the Bureau's intent to deny the application. The applicant was granted thirty

days to respond.

In response, the applicant submitted a letter in which he reaffirmed his claim of employment for [REDACTED] at Seigo Kotake & Sons farm. The applicant included photocopies of time cards purportedly reflecting hours worked by him at Seigo Kotake & Sons farm during April and May of 1986. The time cards contain the handwritten notations "[REDACTED]" and the Social Security number [REDACTED].

The Bureau concluded the applicant had not overcome the derogatory evidence, and denied the application.

On appeal from the initial denial, the applicant reiterated his claim to have performed qualifying agricultural services for [REDACTED] at Seigo Kotake & Sons farm.

In support of his appeal, the applicant submitted a residence affidavit signed by [REDACTED]. In his affidavit, [REDACTED] stated that the applicant resided with him at his house at [REDACTED] from January 1986 to July 1986. However, [REDACTED] attested only to the applicant's place of residence during the period noted above, and provided no information relating to the applicant's purported performance of qualifying agricultural services during the eligibility period.

The applicant also submitted an employment letter signed by [REDACTED]. [REDACTED] asserted that he had been a foreman at Seigo Kotake & Sons farm from 1979 to 1988. [REDACTED] indicated that he had personal knowledge that the applicant had worked at this enterprise picking strawberries under the name [REDACTED] because of the time cards he possessed. However, [REDACTED] failed to submit any independent evidence to confirm his claim to have been employed as a foreman at Seigo Kotake & Sons farm from 1979 to 1988. Moreover, [REDACTED] failed to provide any explanation as to why his personal knowledge of the applicant's performance of agricultural services at Seigo Kotake & Sons farm was based upon time cards, rather than providing direct testimony to having actually witnessed the applicant working based upon his recollection and memory.

In addition, the applicant submitted a co-worker affidavit signed by [REDACTED]. [REDACTED] stated that he and the applicant worked together picking strawberries at the same ranch in 1986. Mr. [REDACTED] indicated that the applicant had worked under the name "[REDACTED]" during this period. However, [REDACTED] failed to specify the exact number of man-days the applicant worked, whether such work occurred prior to the expiration of the qualifying period on May 1, 1986, and the name of the farm where such work took place. [REDACTED] did not state why such information had been omitted from his affidavit.

The record shows that subsequent to the filing of the applicant's appeal, the case was remanded by the AAO, in order to perform a forensic analysis of the signatures contained in the applicant's employment documents as compared with actual signature exemplars obtained from [REDACTED]

The Bureau reopened the matter on October 19, 2001, and informed the applicant of additional adverse information acquired by the Bureau relating to his claim of agricultural employment for [REDACTED] at Seigo Kotake & Sons farm, and of the Bureau's intent to deny his application once again. Specifically, the purported signatures of [REDACTED] on the applicant's supporting documents were found by forensic analysis not to match genuine exemplars obtained by the Bureau from [REDACTED]. The director granted the applicant thirty days to respond. The applicant failed to respond to the Bureau's notice.

The Bureau concluded the applicant had not overcome the derogatory evidence, and denied the application again on March 6, 2002. The applicant was granted thirty days to supplement his previous appeal. As of the date of this decision, the applicant has failed to submit any additional material to supplement his appeal. Therefore, the record shall be considered complete.

Generally, the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and amenability to verification as stated in 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 record contains a Report of Document Analysis, which reflects that the purported signatures of [REDACTED] on the applicant's supporting documents were found by forensic analysis not to match genuine exemplars obtained by the Bureau from [REDACTED]. This signature discrepancy calls into question the origin and authenticity of the applicant's documentation. The applicant has not overcome this 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.