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U.S. Citizenship
and Immigration
Services

[Redacted]

FILE:

[Redacted]

Office: CALIFORNIA SERVICE CENTER

Date: OCT 27 2004

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. 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, Director
Administrative Appeals Office

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DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office 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 acquired by the Immigration and Naturalization Service (the Service) relating to the applicant's claim of employment for [REDACTED]

On appeal, the applicant indicates that she came to the United States in February 1996, and worked seven days a week for [REDACTED]

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 114 man-days of qualifying agricultural employment for [REDACTED] in Maricopa County, Arizona from October 1985 to September 1986.

In support of her claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment statement, both signed by [REDACTED]

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. On January 22, 1990, in the presence of Service officers, [REDACTED] admitted in a signed, sworn statement that all of the employment documents signed by him were fraudulent.

The director attempted to advise the applicant in writing of the adverse information, and of the director's intent to deny the application. However, the notice was returned to sender. The director determined that the applicant had failed to overcome the adverse evidence, and denied the application. On appeal, the applicant maintains that she did work for [REDACTED]

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.).

On appeal, the applicant submits affidavits from [REDACTED] and [REDACTED]. Each affiant states the applicant worked with him or her at Tolleson, Arizona. Neither affiant mentions the name of the employer, or the name of the farm. It is not clear that they are attesting to the applicant's claimed employment for [REDACTED].

In her statement submitted on appeal the applicant states that she arrived in the United States in February 1986. However, on her application she claimed to have begun working for [REDACTED] in October 1985. She also states on appeal that she worked for him for seven days a week, which does not correlate to her original claim that she worked 114 days from October 1985 to September 1986.

[REDACTED] admitted under oath that all employment documents that he prepared are fraudulent. The applicant has not overcome such derogatory evidence which directly contradicts the applicant's claim. 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 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.