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U.S. Citizenship and Immigration Services

[redacted]

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FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: AUG 1 9 2005

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. 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, Director
Administrative Appeals Office

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 (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 provided to the Service for whom the applicant claimed to have worked.

On appeal, the applicant stated that she was resubmitting evidence of other employment she had during the qualifying 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 103 man-days of qualifying agricultural employment for n Santa Maria County, California from May 1985 to December 1985.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter, both purportedly signed by

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. On July 30, 1989 stated in a letter to the Service that he had never been a farm labor contractor, but rather was a sharecropper, foreman, and supervisor at various farms in the Santa Maria Valley in Southern California. Mr. stated that his signature had been falsified on employment documents, and submitted to the Service a list of 267 names belonging to the individuals who had actually worked for him or with him. The applicant is not named on this list. Mr also informed the Service that he worked during the qualifying period only from May 6, 1985 to December 17, 1985.

On December 17, 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 submitted a personal letter in which she stated that had moved and she was therefore unable to locate him. The applicant stated that she was therefore submitting evidence from another employer she had during the qualifying period, indicating that she did not think she was to submit evidence from more than one employer at the time she filed her application.

The applicant submitted an employment verification letter signed by who stated that he employed the applicant to harvest strawberries for 101 man-days from May 1, 1985 to May 1, 1986. The affiant did not attest to where this employment purportedly took place.

In the notice of intent to deny, the director noted that the signatures of on the applicant's supporting documents were visibly and significantly different from authentic exemplars obtained by the Service. However, the signature discrepancy cited by the director is minimal, and it does not appear that a determination can be made without forensic analysis of the signatures.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on January 31, 1992. On appeal, the applicant submitted a copy of the employment affidavit signed by

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 is not named on the list of employees provided by The applicant has not overcome this adverse 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.

Further, an applicant raises questions of credibility when asserting an entirely new claim to eligibility on appeal. In such instances, the Service may require credible evidence to support the new claim as well as a complete plausible explanation concerning the applicant's failure to advance this claim initially. The instructions to the application do not encourage an applicant to limit her claim; rather they encourage the applicant to list multiple claims as they instruct her to show the most recent employment first.

The applicant's claim to have been employed by was first brought to the Service's attention when the applicant responded to the notice of intent to deny. The applicant offers no credible account as to why this entirely new claim to eligibility was not advanced on the application or at the interview. The very purpose of the Form I-700 application is to allow the applicant to claim the qualifying agricultural employment which entitles her to the benefits of status as a special agricultural worker.

Larger issues of credibility arise when an applicant claims employment which is called into question through Service investigation, and later attempts to establish eligibility with a different employer, heretofore never mentioned to the Service. The applicant's advancement of a new employment claim does not address, resolve, or diminish the credibility issues raised by the adverse evidence regarding the applicant's initial claim. Therefore, the applicant's overall credibility remains in question. For this reason, the applicant's new claim of employment for will not serve to fulfill the qualification requirements necessary for status as a special agricultural worker.

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.