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U.S. Citizenship
and Immigration
Services

LH



FILE: [Redacted]

Office: CALIFORNIA SERVICE CENTER

Date: JUN 21 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 that he performed at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on adverse information acquired by the Service relating to the applicant's claim of employment for [REDACTED]

On appeal, the applicant reaffirms his claim to have performed qualifying agricultural employment under the supervision of Pedro Aguirre and submitted additional evidence.

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, provided he is otherwise admissible under section 210(c) of the Act and is 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 application, Form I-700, the applicant claimed to have performed the following employment for labor contractor Pedro Aguirre:

- (1) 72 man-days thinning and weeding sugar beets for [REDACTED] in Imperial, California, from September 1985 to November 1985; and
- (2) 50 man-days cutting asparagus at Signal Produce from January 1985 to February 1986.

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

Subsequently, in the course of attempting to verify the applicant's claimed employment, the Service acquired information which directly contradicts the applicant's claim. Specifically, the Service received a letter from the payroll secretary for labor contractor [REDACTED] indicating that [REDACTED] worked for Mr. [REDACTED] for 14 days between May 27, 1985 and June 17, 1985, and 5 days between February 20, 1986 and February 24, 1986. These letters were accompanied by photocopies of corresponding work records and earnings statements.

In addition, in a letter to the Service dated December 4, 1987, the bookkeeper for Signal Produce Company stated that [REDACTED] worked for Signal Produce a maximum of 24 days between March 4, 1986 and March 29, 1986. On July 20, 1988, [REDACTED] executed a sworn statement in which he admitted that all I-705 affidavits signed by him were fraudulent and that he had no personal knowledge as to whether the applicants in question were eligible for special agricultural worker status.

On March 6, 1989, 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 to the Service's notice, the applicant submitted three separate, virtually identical, form affidavits from [REDACTED] and [REDACTED] all of whom stated that they and the applicant were good friends and that they worked together in the fields. The affiants did not specify for whom they worked, the crops they worked with, or the farms on which they purportedly worked.

The director concluded the applicant had not overcome the adverse information, and denied the application on January 24, 1992. On appeal from the director's decision, the applicant requested a copy of his legalization file. CIS complied with the request on September 1, 2004. The applicant submitted two separate, pre-printed form affidavits, with spaces provided for the insertion of an individual's name and information about the crops and the purported employer. These two affidavits were signed by [REDACTED]

Both affiants stated that they and the applicant worked together thinning and weeding sugar beets and lettuce for [REDACTED]. In addition, the applicant provided photocopies of evidence previously submitted.

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 fact that [REDACTED] the applicant's alleged employer, admitted that all I-705 affidavits signed by him were fraudulent directly contradicts the applicant's claim. The applicant has not overcome such adverse evidence. As such, 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.