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U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: AUG 03 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: Self-represented

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

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 (INS) relating to the applicant's claim of employment for Pete Chavez.

On appeal, the applicant states that she has not failed to meet her burden of proof. She provides an affidavit in support of her agricultural claim.

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 to have topped onions and cantaloupes for 108 days from May 1985 to May 1986 for Pete Chavez at various farms in [redacted]. In support of the claim, the applicant submitted a Form I-705 affidavit and an employment letter, both purportedly signed by [redacted] who identified himself as a foreman on one document and as a farm labor contractor on the other.

In attempting to verify the applicant's claimed employment, the director acquired information which contradicted the applicant's claim. On August 8, 1991 [redacted] xecuted a sworn statement before INS officers regarding employment documents containing his name as the affiant which were submitted by applicants seeking benefits under the special agricultural worker program. The sworn statement signed by [redacted] included three lists of individuals with their accompanying birthdates and A-file numbers. The first list consisted of those individuals who actually worked for him for at least 90 man-days during the qualifying period; the second list consisted of individuals to whom he sold documents but had no knowledge of these applicants' work experience; and, the third list, as verified by [redacted], consisted of individuals whose employment documents contained fraudulent signatures of himself as the affiant, as he had not provided these documents to the individuals in question and had no knowledge of their work experience. The applicant's name appears on the third list of individuals.

On October 24, 1991, the applicant was advised in writing of the adverse information, and of the director's intent to deny the application. The applicant was granted thirty days to respond. In response, the applicant reiterated that she had worked fo[redacted] She indicated that she believed that some people such as Mr. [redacted] provided excessive letters to INS, and because of that some genuine field workers would suffer. She provided a notarized statement from [redacted] who indicated that he had known her since 1987, and that she was working in the fields during that time. In another notarized statemen[redacted]ast name illegible) indicated he met her in 1987 in the fields and found out from her that she had been working there for a couple of years.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application. On appeal, the applicant again reiterates her employment claim. She explains that she looked for after receiving the denial notice, but could not find him. She submits a notarized statement from Servando Felix, who states that he worked with the applicant from 1985 to 1986 for

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.).

It is noted that none of the documents submitted, from nd the others, mention the names of the farms at which the claimed employment took place. Thus, the claim of employment would not be verifiable through contact with actual farm owners. Also, the names of the alleged coworkers who have provided statements do not appear on the list of actual workers provided by In fact, name appears on the same list as that of the applicant.

The very specific derogatory information obtained by the director regarding Pete Chavez directly contradicts the applicant's claim. The applicant has not overcome such 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 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.