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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 04 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 relating to the applicant's claim of employment for

On appeal, the applicant states he worked for Arizona from October 1985 to January 1986. He indicates he has not been able to find anyone who could help him prove that. He provides affidavits from three individuals attesting to his employment fo

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 harvested lettuce and cabbage for 105 days from May 1985 to August 1985. He showed the name of the employer, and the name of the farm, to be

In support of his claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter, both signed by referred to himself as a foreman. On the Form I-705, did not complete the block in which he was to show the name of the farm.

In the course of attempting to verify the applicant's claimed employment, the Immigration and Naturalization Service (Service) acquired information which contradicted the applicant's claim. A Service officer contacted an official of the Cooperative Extension Service of the University of Arizona, and was informed that lettuce and cabbage are not harvested during the summer months claimed by the applicant. Furthermor was convicted of conspiracy to create and supply false documents to special agricultural workers.

On January 22, 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. However, no response was received. The director concluded the applicant had not overcome the derogatory evidence, and denied the application.

On appeal, the applicant provides affidavits from three individuals who state the applicant worked in the fields in Chandler, Arizona during 1985 and 1986 for None of the affiants specify the job duties, number of days worked, and the locations.

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.).

According to state agricultural officials, lettuce and cabbage are not harvested in Arizona during the summer months. Although the applicant reiterates his employment claim, he has not addressed this specific derogatory evidence. Additionally, Mr. fraud conviction cannot be overlooked when evaluating the overall credibility of the applicant's claim. Furthermore, Mr. and the other affiants have all failed to identify the location where the purported employment took place. The applicant indicated there was a ' ' farm, but if that were the case, Mr. would have undoubtedly just shown that on his affidavit and would not have referred to himself as a foreman. It is not clear where the claimed employment is said to have occurred, which makes the claim unverifiable. Therefore, for all of these reasons, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant also makes a different claim, to have worked at RTL Farms. He has not provided any evidence of that. As stated above, personal testimony alone will not serve to meet an applicant's burden of proof.

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.