PUBLIC COPY
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

U.S. Citizenship
and Immigration
Services

[redacted]

AUG 04 2004

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date:

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 that he performed at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on information provided by for whom the applicant claimed to have worked.

On appeal, the applicant states he did work for and furnishes a photocopy of an affidavit which had already been submitted in this proceeding.

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 harvested grapes for 102 days for in Kern County, California from June to October 1985 .

In support of the claim, the applicant submitted a corresponding affidavit purportedly signed by Roy Perez. He also provided numerous photocopies of a short form, "Statement for Thinning, Weeding and Blocking," purportedly representing different pay periods in 1985.

In the course of attempting to verify the applicant's claimed employment, the director acquired information which contradicted the applicant's claim. On January 4, 1988, in United States District Court, Southern District of California, pled guilty to violating one count of 18 U.S.C. 1001 and 2, aiding and abetting false statements and writings used in support of applications filed for special agricultural worker status.

was informed that the Service received more than 2,200 Special Agricultural Worker applications from individuals who allege to have worked for in Kern County, California. On April 10, 1990, provided a voluntary sworn statement "to assist this agency in clearing up problems that I and persons signing my name to these employment affidavits have created." In his statement, stated that the only work he performed in the years 1985 and 1986 relating to grapes was to rent tractors to harvesting crews and to periodically check these tractors for needed repairs. further stated that the only agricultural workers that he employed in the years 1985 and 1986 was a crew of 35 individuals that he hired from the local Bakersfield, California area. employed these workers to harvest cotton, and he did not sign any employment verification letters or I-705 affidavits for any of his cotton harvesting crew, as they were all legal residents of the United States.

specified that each and every employment verification letter and Form I-705 that indicates as the affiant is false, fictitious, and fraudulent. also advised the Service that he was aware of other individuals who signed verification letters using the name Audon Roy and that these signed documents represent a forgery of his name and should also be considered false, fictitious, and fraudulent.

On December 3, 1990, 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. He failed to do so. The director concluded the applicant had failed to overcome the adverse information, and denied the application.

On appeal, the applicant simply provides a photocopy of the affidavit purportedly from and states that he did work for him.

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 Audon Roy Perez, the applicant's alleged employer, admitted that all documentation he signed on behalf of individuals applying for special agricultural worker status was false directly contradicts the applicant's claim. The applicant has not overcome this 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 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.