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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: FEB 02 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:

Attached 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.

Dennis M. Kupfer
for
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 acquired by the Service (now Citizenship and Immigration Services, or CIS) relating to the applicant's claim of employment fo

On appeal, the applicant reaffirmed his claim to have performed more than 90 man-days of qualifying agricultural services in the twelve month period ending May 1, 1986. The applicant also requested a copy of the record of proceedings.

The record shows that CIS complied with the applicant's request and mailed a copy of the record to him on September 24, 2002. As of the date of this decision, the applicant has failed to submit a statement, brief, or documentation to supplement his appeal. Therefore, the record shall be considered complete.

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 Immigration and Nationality Act (INA) 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 102 man-days harvesting grapes for Juan Lozano in Kern County, California from May1985 to December 1985.

In support of the claim, the applicant submitted a Form I-705 affidavit purportedly signed by Juan G. Lozano. Mr. Lozano indicated that he was a grower and foreman, that the applicant's employment occurred at "Juan Lozano" farm in Kern County, California, and that the applicant had been paid in cash in the Form I-705 affidavit.

In attempting to verify the applicant's claimed employment, CIS acquired information which contradicted the applicant's claim. Specifically, J informed the CIS that he paid his employees strictly by check, never in cash. Furthermore, the signatures on the applicant's supporting documents are visibly and significantly different from authentic exemplars provided by

On April 27, 1992, the applicant was advised in writing of the adverse information, and of CIS's intent to deny the application. The applicant was granted thirty days to respond. The record shows that the applicant failed to respond to the notice.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application.

On appeal, the applicant reaffirmed his claim of agricultural employment. However, the applicant failed to address the fact that the purported signature of J contained in the Form I-705 affidavit visibly and significantly differs from the true and correct signature of Mr. Lozano. In addition, the applicant failed to provide any explanation as to why the Form I-705 affidavit indicated that he was paid in cash when specifically stated that all of his employees were paid by check.

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.).

Juan Lozano has advised CIS that he paid his employees strictly by check. Furthermore the alleged signature of Mr. Lozano that is contained in the applicant's supporting documentation is significantly different from Mr. Lozano's actual signature. 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 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.