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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: JUL 06 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 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 regarding the applicant's claim of employment for

On appeal, the applicant simply refers to evidence previously submitted.

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). *See* 8 C.F.R. § 210.3(a). An applicant has the burden of proving the above by a preponderance of the evidence. *See* 8 C.F.R. § 210.3(b).

On the Form I-700 application, the applicant claimed 126 man-days cleaning and pinching [sic] watermelons, onions and cantaloupe in Yuma County, Arizona, for from May 1985 to May 1986. In support of the claim, the applicant submitted a Form I-705 affidavit and separate employment statement, both purportedly signed by Mr

In attempting to verify the applicant's claimed employment, the director acquired information which contradicted the applicant's claim. nd four co-defendants were convicted by jury trial of seventeen felony counts of Conspiracy, Aiding and Abetting, and the Creation and Supplying of False Application Documents for Adjustment of Status, in U.S. District Court, Phoenix, Arizona, CR 88-153-PHX-RGS. In addition, an investigation revealed that he applicant's purported employer, did not employ or supervise agricultural employees in any capacity during the qualifying period. Furthermore, Yuma County tax and real estate records indicate that there was no agricultural land in Yuma County that was owned or operated by

On May 14, 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. The applicant responded by furnishing a letter, purportedly from Personnel Manager of and Sons, a grower and packer, which indicates that the applicant "has gone and came to work for our company since 1985…." The applicant did not contest the adverse evidence regarding and did not reiterate that he had worked for Mr.

The director determined that the applicant had failed to overcome the adverse evidence, and denied the application. On appeal, the applicant refers to the letter from

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 adverse information acquired by the director regarding the applicant's alleged employment for directly contradicts the applicant's claim. The applicant has not addressed, much less overcome, such derogatory evidence. Thus, the documentary evidence submitted by the applicant regarding that claim of employment cannot be considered as having any probative value or evidentiary weight.

An applicant raises serious questions of credibility when asserting an entirely new claim to eligibility only after receiving a notice of intent to deny. The applicant provides no explanation as to why his claim to have been employed by and Sons was not advanced initially, or at the interview. The instructions to the application do not encourage an applicant to limit his claim; rather they encourage the applicant to list multiple claims as they instruct him to show the most recent employment first. Furthermore, as the applicant has not contested the finding that his initial claim was false, his overall credibility is suspect. For these reasons, the applicant's new claim of employment will not serve to fulfill the qualification requirements necessary for status as a special agricultural worker.

The applicant's initial claim is lacking in credibility due to the adverse evidence. The credibility of the applicant's new claim must be deemed questionable at best. Under these circumstances, it cannot be concluded the applicant has credibly established that he performed at least 90 man-days of qualifying agricultural employment during the statutory period ending May 1, 1986. Consequently, the applicant has not demonstrated his eligibility for temporary resident status as a special agricultural worker.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.