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

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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. 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the District Director, Los Angeles. It was reopened and denied by the Director, Western Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The directors 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. These decisions were based on adverse information regarding the applicant's claim of employment at Pleasant Valley Company.

On appeal, the applicant states that Mr did contract the applicant and others to work on various farms in the area. He states Mr not the company, paid them.

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 performed 101 man-days of qualifying agricultural employment for at Pleasant Valley Company in Ventura County from November 2, 1985 to March 25, 1986.

In support of the claim, the applicant submitted two corresponding affidavits from Mr who indicated he was the applicant's foreman.

In attempting to verify the applicant's claimed employment, the district director seemingly acquired information which contradicted the applicant's claim. Specifically, the district director indicated that Pleasant Valley Company disavowed having employed as a foreman, and indicated that the applicant was not listed as an employee of that company.

The district director denied the application without giving the applicant the required opportunity to rebut the adverse information. The center director reopened the case, and called the payroll supervisor and a personnel clerk at Pleasant Valley Company. Both stated the applicant and Mr. were not employed by the company. However, the personnel clerk referred the center director to a contracto Custom Packing. An employee of that company stated that Mr was employed by them, but not as a foreman, for two days in October 1986. On January 14, 1991, the center director attempted to advise the applicant in writing of the adverse information, and of that director's intent to deny the application. However, that notice was returned as undeliverable.

The center director concluded the applicant had not overcome the derogatory evidence, and denied the application. A Domestic Return Receipt (postal receipt) in the record indicates the denial notice was

received and signed for by a member of the applicant's family. Nevertheless, there is no response from the applicant in the record.

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.).

did not work for Pleasant Valley Company, and is known to have worked for for only two days, *after* the end of the twelve-month qualifying period. Therefore, Mr. was not in a position to attest to the applicant's claimed employment during the qualifying period. The applicant has failed to overcome this adverse evidence, which directly contradicts his employment claim. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has, therefore, 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.