U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

[redacted]

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FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: JUN 12 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, Northern Regional Processing Facility, 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. The decision was based on adverse information relating to the applicant's claim of employment for Kansas City Produce (KCP).

On appeal, the applicant claims he was not given enough time to respond to the notice of adverse information. He provides additional documentation.

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 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).

The applicant claimed on his application to have engaged in 110 man-days of qualifying agricultural employment for KCP from May to October 1985. He provided no indication that he ever worked in agriculture other than during the period required to qualify for temporary resident status.

In support of the agricultural claim, the applicant submitted corresponding affidavits from [redacted] who indicated he was a crew leader, and [redacted] who claimed to be a coworker.

In attempting to verify the applicant's claimed employment, the facility director acquired information that seemingly contradicted the applicant's claim. According to the director, the owner of KCP stated that Gilbert Rocha did not work there during the requisite twelve-month period. The director further concluded that KCP's payroll records showed th[redacted]d not work there.

On December 19, 1990, the applicant was advised in writing of the adverse information obtained by the director, and of the director's intent to deny the application. The applicant was granted thirty days to respond. No response was received, and the director then denied the application.

On appeal, the applicant provides a boilerplate statement used by many applicants, in which he states that the director denied the application without regard to his request for additional time to respond to the notice of adverse information. However, there was no such request in the record when the application was denied, and no such response was belatedly entered into the record. On appeal, the applicant has not provided a copy of the alleged request. The applicant furnishes photocopies of 46 "fill-in-the-blank" identically-worded affidavits from individuals claiming to have worked for [redacted] None of the affiants state the applicant worked there.

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 applicant has not made any statement since the appeal was filed on March 28, 1991. In that appellate statement he refers to the 46 affidavits, but never actually reiterates that he worked at KCP. Although in other cases, later provided a statement reiterating that he had truly supervised the alien whose application had been denied, he has not done so in this case. Nor has the applicant provided any affidavits from employees of non-profit organizations, who have clearly stated in other cases that they provided outreach and nursing services for the migrant workers at KCP, and have named such workers. Furthermore, his claim to have requested additional time to respond does not appear to be valid, and that reflects on his overall credibility.

Under these circumstances, it is concluded that 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.