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]

JUL 21 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 the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on adverse information relating to the applicant's claim of employment for at the

On appeal, the applicant provides details about the work he claims to have performed, and submits affidavits from six people in support of his appeal.

The applicant appears to be represented; however, no Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted. Therefore, this decision will be furnished to the applicant only.

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). *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 over 90 man-days of qualifying agricultural services for at the from November 1985 to May 1986.

In support of the claim, the applicant submitted a Form I-705 affidavit, signed by , who identified himself as a "former foreman."

The applicant was subsequently advised of adverse evidence acquired by the director in the course of verifying the applicant's claim. Specifically, of the stated in a letter that his company had never employed as a supervisor, contractor, or general laborer. In a separate letter to the Service again reiterated that his company had never been associated with in any capacity.

The applicant was advised of the director's intent to deny the application, and was granted thirty days to submit additional evidence in support of his claim. The applicant requested an additional 60 days. After that time had passed, the director denied the application, noting the applicant had failed to respond further.

Generally, the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and amenability to verification. *See* 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. *See* 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 furnishes a letter from The of He indicates that the applicant resided in in 1985 and 1986, and attests to his character. of attests to the applicant having been a member of the in 1985 and 1986. However, neither states the applicant was employed in agriculture.

in an affidavit, states that she can verify the applicant's farm work because she contacted him in mass every Sunday.

In affidavits half pre-printed and half completed in the same handwriting, state they "became acquainted with the applicant because we were neighbors. We work together. He went to my church and also community meetings." These affiants do not state when they worked with the applicant, and do not explain what type of work it was. In another affidavit, states the same, without the reference to having worked with the applicant.

Most of the affiants do not claim to have worked with the applicant, and therefore are not in a position to attest with any specificity to his work. The vague statements of two affiants, that they work with him, are not sufficient to overcome the adverse information.

In his declaration, the applicant provides many details about the employment he claims he engaged in for whom he refers to as a farm labor contractor. However, the chief executive officer of the applicant's claimed place of employment has stated that the applicant's alleged foreman, has never been associated with his company in any capacity. The officer specifically stated that had never been employed as a supervisor, *contractor*, or general laborer. The applicant has not overcome such derogatory evidence. Nor has the applicant, or or anyone else, provided any other information regarding a different location where the applicant may have worked for

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.