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

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: JUL 30 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

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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 relating to the applicant's claim of employment for Juan Lemus at Ram/Son Contractors.

On appeal, the applicant states that he worked for farm labor contractors Juan Lemus and Juan Lopez Cibrian.

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). 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 124 man-days of qualifying agricultural employment for [redacted] from September 1985 to January 1986. In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a notarized letter of employment, both signed by [redacted] who identified himself as the applicant's foreman at Ram/Son Contractors. [redacted] specified that the applicant worked 100 days from September 1985 to December 1985, and 24 days in January 1986.

In attempting to verify the applicant's claimed employment, the director acquired information which contradicted the applicant's claim. Specifically [redacted] stated that [redacted] only worked as a foreman for a total of twenty-six days during the months of October and November of 1985. Furthermore, [redacted] bookkeeper for [redacted] stated that their business ended on December 31, 1985 and that no one but herself actually worked in the month of December.

On February 1, 1989 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. In response to the notice, the applicant furnished an affidavit in which he asserted that he contacted [redacted] who told him that all of his records were at the San Diego County Superior Court. He stated tha[redacted] would not give him any additional proof. The applicant provided evidence of non-agricultural employment that he engaged in from 1987 to 1989. He also provided a Form W-2 Wage and Tax Statement showing he earned $364 dollars working for Louis Poloni in 1985. There is no indication that this was agricultural work.

The director concluded that the applicant had failed to overcome the adverse evidence, and denied the application.

On appeal, the applicant submits a pre-prepared brief in which the applicant simply filled in his name, file number, and names of alleged employers. The brief refers to a court case and general standards of evidence without explaining how any of it relates to his case. The brief does not address the adverse evidence put forth by the director.

The applicant furnishes his own declaration, in which he explains his work history. He does not specifically assert that he did work for at least 90 days fo He states that he should have gone to another foreman, much earlier in order to acquire proof of work. The applicant claims that he worked fo st prior to, and after, he worked for Juan Lemus. He submits an affidavit from stating the applicant worked for him for 90 days from May 1, 1985 to May 1, 1986. He also provides evidence that was registered as a farm labor contractor.

The applicant also provides affidavits from and attesting to his character and to their knowledge that he worked as a field worker. None of them provide any specifics about his agricultural employment, or claim to have worked with him.

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.).

An applicant raises serious questions of credibility when asserting an entirely new claim to eligibility on appeal. The claim to have been employed by was not advanced by the applicant initially, or at the interview, or even after he received the letter advising him of the adverse information. 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 in terms of the number of days worked, his overall credibility is suspect.. Larger issues of credibility arise when an applicant claims employment which is called into question through an investigation, and six years later attempts eligibility with a different employer, heretofore never mentioned. For these reasons, the applicant's new claim of employment for s not deemed credible.

According to officials of worked as a foreman for only 26 days during the qualifying period. The applicant has not overcome this derogatory information which directly contradicts the applicant's claim. The applicant's new claim on appeal is not credible. Under these circumstances, it cannot be concluded that the applicant has 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.