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: SEP 0 1 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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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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 acquired by the Immigration and Naturalization Service (the Service) relating to the applicant's claim of employment for Jesse Olivas.

On appeal, the applicant indicates that she also worked for Roberto Alvarez, and provides documents in support of such claim.

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 harvested lettuce for 130 days during the qualifying period for In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a man-days breakdown, both signed by and a letter from affirming tha was employed at the farm during the qualifying period.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. executed a sworn statement before a Service officer on June 6, 1990 admitted in this statement that "my records showed that no one worked for me for ninety (90) days or more during the amnesty qualifying period in 1985 and 1986." also indicated he had pled guilty to charges of Conspiracy and Creating and Supplying a False Writing and Document for use in Making an Application for Adjustment of Status as a Special Agricultural Worker.

The applicant was advised in writing of the adverse information obtained by the Service, and of the Service's intent to deny the application. The applicant was granted thirty days to respond, and then an additional thirty days. She failed to respond, and the director denied the application.

On appeal, the applicant does not specifically contest the adverse information. She references evidence she is submitting from whom she refers to as her other employer. The documents include an affidavit and letter from him, and a photocopy of a purported Employee Compensation Record with the applicant's name printed in ink across the top of the photocopy.

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.).

Jesse Olivas, the applicant's purported employer, has pled guilty to document fraud charges and admitted that no one worked for him for the minimum of 90 man-days. The applicant has not overcome this derogatory evidence which directly contradicts her claim. Therefore, the documentary evidence submitted by the applicant regarding that claim 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 on appeal. The applicant provides no explanation as to why her claim to have been employed by Roberto Alvarez during the qualifying period was not advanced initially, or at the interview, or at least when she received the letter advising her of the adverse information. The instructions to the application do not encourage an applicant to limit her claim; rather they encourage the applicant to list multiple claims as they instruct her to show the most recent employment first. Furthermore, as the applicant has not contested the finding that her initial claim was false, her overall credibility is suspect. Finally, the photocopy of the Employee Compensation Record, with her name added to it, cannot be viewed as an actual contemporaneous record.

Serious issues of credibility arise when an applicant claims employment which is called into question through Service investigation, and later attempts eligibility with a different employer, heretofore never mentioned to the Service. For this reason, the applicant's new claim of employment for Roberto Alvarez will not serve to fulfill the qualification requirements necessary for status as a special agricultural worker.

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.