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: [illegible]

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:

[redacted]

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

On appeal, the applicant reiterates his claim to have worked for Andy Rios and also for Alberto Marroquin.

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 onions, nectarines, plums and peaches for more than 90 days for alifornia from May 1985 to May 1986.

In support of his claim, the applicant submitted a corresponding Form I-705 affidavit and another affidavit, both signed by who identified himself as a foreman and indicated that the applicant's employment took place there.

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. In letters dated February 23, 1989 and April 25, 1989, personnel clerk for advised the Service that had never been employed by that enterprise. The letter of February 23, 1989 was also signed by president

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.

In response to the Service's notice, counsel submitted affidavits from who attested to the applicant's employment fo from May 1985 to May 1986. Neither counsel nor the applicant mentioned in the response.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application. On appeal, the applicant indicates that he is unaware of the true identity of the company for whom hired him to work. He maintains that he also worked for and did not include this

information on his application because the preparer of the application assured him that one employer was enough.

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.).

claimed that the applicant was paid cash and that therefore no records exist. However, it is noted that, in a letter dated March 2, 1989 advised the Service that Company "has never paid cash for work performed by either employees or labor contractors. All work performed is paid by check." In other correspondence, also indicated that "is not affiliated with onions" as claimed on the applicant's documentation.

The personnel clerk of has stated that company has never employed who claimed to have been the applicant's foreman. The applicant has not overcome this derogatory evidence. It is noted that the applicant did not, initially, even contest the adverse evidence regarding He reiterates his employment for on appeal by simply inserting name in a boilerplate statement, without providing any specifics about his alleged employment. While the applicant implies that he may have worked for elsewhere, he fails to specify any such farm. Therefore, the documentary evidence submitted by the applicant regarding the claim to have worked for 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. The instructions to the application do not encourage applicants to limit their claims; rather, applicants are encouraged to list multiple claims, as they are instructed to show the most recent employment first.

The affidavits submitted in response to the notice of intent to deny do not state how many days the applicant supposedly worked for Larger issues of credibility arise when an applicant claims employment which is called into question through Service investigation, and later attempts to establish eligibility with a different employer, heretofore never mentioned to the Service. For this reason, the applicant's new claim of employment for 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.