U.S. Department of Homeland Security
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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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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 Service relating to the applicant's claim of employment for Joe Quair Banuelos.

On appeal, the applicant refers to another claim of employment that he made after the adverse information regarding was provided to him.

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 180 man-days of qualifying agricultural employment for at the farm in Tulare County, California, from May 1985 to September *1986*. In support of his claim, the applicant submitted a Form I-705 affidavit signed by Joe Quair who claimed to be a farm labor contractor indicated that the applicant worked with peaches, plums, nectarines, grapes, oranges, lemons, and olives at the farm until September *1985*. further stated that supporting payroll records were not available because the applicant was paid in cash.

In attempting to verify the applicant's claimed employment, the director acquired information which contradicted the applicant's claim. stated that all workers who were provided by Mr. were placed on payroll and were paid exclusively by check. He indicated that had been a foreman, not a farm labor contractor. He further stated that did not have access to payroll records, and that it was virtually impossible for to correctly identify anyone as having worked 90 days. He also stated that he was certain that all verifications done by Mr. Banuelos were falsified.

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, the applicant stated that he also worked for and provided an affidavit from him.

The director concluded the applicant had not overcome the derogatory evidence, and had made a new claim without adequate explanation, and therefore denied the application. On appeal, the applicant reiterated that he had worked for He stated that he did not list him on his application because the person who prepared his application said he needed to show only one employer.

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 owner of the farm where the applicant claimed to have worked, stated that his employees were "paid exclusively by check." The applicant and have claimed that the applicant was paid in cash. Furthermore, it is noted that the applicant and claimed to have worked with nectarines, peaches, and lemons on the farm. However, on January 11, 1991, specified that he did not grow these crops on his farm.

The derogatory information obtained by the director regarding s directly contradicts the applicant's claim. The applicant has not overcome such derogatory evidence. Therefore, the documentary evidence submitted by the applicant regarding that claim cannot be considered as having any probative value or evidentiary weight.

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. While the applicant indicates that the individual who prepared his application said only one claim of employment was necessary, no statement from such alleged preparer has been furnished to that effect. Although the application may have been prepared by someone other than the applicant, no one identified himself or herself as the preparer in the block where that information is requested. Issues of credibility arise when an applicant claims employment which is called into question through investigation, and later attempts eligibility with a different employer, heretofore never mentioned. For this reason, the applicant's new claim of employment for ill 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.