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 01 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 provided by for whom the applicant claimed to have worked.

On appeal, the applicant asserts that he worked for another employer; and provides documents to that effect. He also states that he worked for and that he "cannot understand why the signature on the employment document is not accepted."

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 109 man-days of qualifying agricultural employment for Frank Vega in Santa Barbara County, California from May to October 1985. In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter, both purportedly signed by Frank Vega. The applicant did not claim to have worked for anyone else during the requisite period.

In attempting to verify the applicant's claimed employment, the director acquired information which contradicted the applicant's claim. On July 30, 1989, stated in a letter to the director that he had never been a farm labor contractor, but rather was a sharecropper, foreman, and supervisor at various farms in the Santa Maria Valley in Southern California. stated that his signature had been falsified on employment documents, and submitted a list of 267 names belonging to the individuals who had actually worked for him or with him. The applicant is not named on this list. also informed the director that he worked during the qualifying period only from May 6, 1985 to December 17, 1985.

The applicant was advised in writing of the above adverse information, and of the fact that the signature of on the applicant's documents did not resemble actual signature. The applicant was granted thirty days to respond. The applicant did not respond in a timely fashion, and the director denied the application.

On appeal the applicant does not overtly state that he worked for He asserts that he worked for Alma Langi, and wonders why "the signature on the document is not accepted." The director had noted that

the purported signature of [redacted] looked different than [redacted]s actual signature. The director's observation was well founded. Also, it is not clear wh[redacted] is. She has not provided documentation indicating the applicant worked for her.

The applicant furnishes two affidavits from [redacted] claiming the applicant worked for him from November 11, 1985 to February 30, 1986. Not only were there not 30 days in February, but both affidavits were altered where they referred to the dates employed. Thus, these affidavits cannot be accepted.

Additionally, 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. Larger 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 these reasons, the applicant's new claim of employment for Palemon R. Gomez will not be viewed as credible

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 applicant is not named on the list of employees provided by [redacted] The applicant has not overcome this adverse evidence which directly contradicts the applicant's claim. Therefore, the documentary evidence submitted by the applicant regarding this claim cannot be considered as having any probative value or evidentiary weight. The applicant's amended claim on appeal is not supported by documents that have the appearance of reliability, and is therefore 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.