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U.S. Department of Homeland Security
20 Massachusetts Ave. NW, Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

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FILE: [redacted] Office: CALIFORNIS SERVICE CENTER Date: APR 2 8 2005

IN RE: Applicant: [redacted]

PETITION: 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-RPERESENTED

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 the matter 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

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 (AAO) 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 fo the Jackson Company.

On appeal, the applicant requested a copy of his legalization file. The Service complied with the request on May 18, 2004. The applicant stated that he believes he was denied because his employer gave employment documents to other individuals who did not work for 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 to have worked over 90 man-days with lettuce and broccoli for n Imperial County, California from May 1985 to May 1986.

In support of his claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter, both signed by who indicated that he was the foreman at the Jackson Company.

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. A Service officer contacted the Employment Educational Development Department in Calexico, California. An official of that organization informed the Bureau that, since the 1970's, there was no agricultural enterprise in Imperial County named "the Jackson Company" or "Jackson Produce."

Further Service investigation revealed tha did work at a farm in El Centro, California, owned by In a letter to the Service, Mr stated that the farm dealt primarily with hay, a non-qualifying crop, and, in the winter of 1985-86, with cabbage. These crops are not the crops claimed by the applicant. M further informed the Service that was never a foreman at the farm.

On July 22, 1991, the applicant was advised in writing of the adverse information obtained by the Bureau, and of the Bureau's intent to deny the application. The applicant was granted thirty days to respond. The record does not contain a response from the applicant.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on September 18, 1991. On appeal, the applicant stated that he believes he was denied because his employer gave employment documents to other individuals who did not work for him. The applicant did not submit any additional evidence.

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.).

On appeal, the applicant indicates that M have signed documents for others who did not work, but that he did work for Mr as claimed. However, the adverse evidence acquired by the Service indicates that no one worked under "Jackson Company" in Imperial County, California during the qualifying period.

It is noted that informed the Service that was employed from "7/7/85 through 10/29/85." Pauline Montgomery, Mr. office manager, indicated to a Service officer that Mr. worked only in July and October of 1985, and not during the intervening months. Mr worked a total of only two to three weeks at the farm, and therefore would not be in a position to verify or attest to 90 man-days of employment for any applicant.

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

The applicant has failed to credibly 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.