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20 Massachusetts Ave. NW, Rm. A3042
Washington, DC 20529

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U.S. Citizenship
and Immigration
Services

[redacted]

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FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date:

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-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 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 determination was based on information provided by [redacted] or whom the applicant claimed to have worked.

On appeal, the applicant submitted an appeal statement and a copy of evidence, previously submitted.

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, provided he is otherwise admissible under section 210(c) of the Act and is 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 application, Form I-700, the applicant claimed man-days of qualifying agricultural services for Fred and [redacted] from May 1985 to May 1986. In support of the claim, the applicant submitted a Form I-705 affidavit and a separate employment letter, both purportedly signed by [redacted]

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. In the United States District Court for the District of Oregon [redacted] pled guilty to conspiracy to falsify and sell thousands of affidavits attesting to employment on his farm. As part of his plea agreement, [redacted] gave sworn statements in which they provided, based on their records and memory, a list of 31 names of individuals who did in fact actually perform at least 90 man-days of qualifying agricultural employment for them. They also provided another list of 101 names of individuals (again based on their memory and records) they believed worked for them, but for less than 90 days. The applicant's name does not appear on either list. Both [redacted] also stated that they have no other records. Several thousand aliens are known to have filed applications claiming to have performed 90 or more man-days of employment for the [redacted]

On February 27, 1991, 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. 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 January 17, 1992. On appeal, the applicant stated that he tried to contact [redacted] but was unsuccessful. The applicant stated that he tried to contact the foreman he worked for, but was told that he had gone back to Mexico. The applicant also stated that he had personally seen more than 300 persons in the labor camp where he stayed and that the [redacted] had employed more than 300 individuals. The applicant submitted a copy of his Form I-705 affidavit, previously submitted.

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's claim to having seen 300 individuals in a labor camp does not serve to indicate the number of employees employed by the Wickershams While the applicant reiterates his employment claim on appeal, he has provided no new documentation whatsoever to rebut the adverse evidence in this matter. The applicant has not established the performance of at least 90 days of employment for the Wickershams. 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.