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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: CALIFORNIA SERVICE CENTER Date: APR 28 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 for at Santa Maria Berry Farms.

On appeal, the applicant stated that he did not know why his application was denied.

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 performed 120 man-days harvesting strawberries for Santa Barbara County, California from May 1985 to May 1986.

In support of his claim, the applicant submitted an I-705 affidavit and a separate employment statement, both purportedly signed by

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. On January 29, 1990, a Service officer interviewed the office manager for That official indicated that Mr. employed "not more than two (2) to three (3) individuals at any given time . . . (and these) individuals were continuously being replaced by newly hired employees." Mr had sub-leased 2.29 acres of farm land in 1985, and 2.1 acres in 1986. The farm's office manager, speaking from 22 years of experience in farming, stated that "there is only a need for two (2) persons per acre of land in strawberry farming."

Furthermore, in a sworn affidavit dated July 27, 1989, ated that he had been advised that his signature had been forged on employment documents, and that he had never authorized anyone to sign such documents in his name. Mr further stated that "(a)ny document which purports to bear my signature in reference (to) any INS application should therefore be regarded as null and void."

On April 7, 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. Subsequently, in a letter dated April 8, 1992, the applicant stated that he had been advised that a notice had been sent to him, which he had not received.

The director determined that the applicant had failed to overcome the adverse evidence, and denied the application on June 10, 1991. On appeal, the applicant stated that he did not know why his application was denied.

The record reflects that, on May 15, 1992, the notice of intent to deny and the notice of denial were remailed to the applicant. The record contains no evidence that the notices were returned to the Service undelivered.

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.).

[redacted] the applicant's purported employer, has denounced employment affidavits in his name as forgeries and declared all such documents to be "null and void." An official of [redacted] has indicated that [redacted] only hired small numbers of workers who were frequently replaced. The applicant has not overcome this adverse information which directly contradicts his/her 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.