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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-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 (SAW) was denied by the District Director, Phoenix, Arizona. The application was subsequently reopened and denied again by the Director, Western Service Center. The matter is before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In both decisions of denial, 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. The decisions were based on evidence adverse to the applicant's claim of employment fo

Although the applicant did not respond to the more recent decision of denial, his appeal taken from the previous decision of denial is still in effect. In that appeal, the applicant stated that he was nervous during his legalization interview and got his employment dates confused. The applicant submitted additional evidence. The applicant's employment claim and the evidence are addressed below.

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 145 man-days picking carrots for at from May 1986 to November 1986.

In support of the claim, the applicant submitted a Form I-705 affidavit and a separate form employment verification letter, both of which were purportedly signed by dicated that the applicant was employed from May 1, 1985 to May 1, 1986.

On April 1, 1988, the District Director, Phoenix, Arizona determined that the applicant had not credibly established his claim to eligibility and denied the application. On appeal, the applicant stated that he was nervous during his legalization interview and got his employment dates confused. The applicant submitted three separate statements from Acosta, each of whom stated th 1986.

On February 15, 1991, in a Notice of Intent to Deny, the Director, Western Service Center, noted that the Service possessed evidence adverse to the applicant's employment claim. Specifically, . A Service officer contacted the administrative assistant fo who stated tha had never worked as a supervisor for that farm but may have worked for AJM Farms, owned b The office manager of AJM Farms informed the officer that had been employed as a supervisor from February 25, 1985 to March 14, 1985, and did not work for the farm at any other time before or since.

The director further noted that the applicant claimed on his Form I-700 application that he first entered the United States on April 30, 1986 and therefore, he could have worked no more than one qualifying day. The applicant was granted 30 days to respond. The record does not contain a response from the applicant.

The Director, Western Service Center, found that the applicant had not overcome the adverse evidence and denied the application on November 27, 1991. The record does not contain any evidence that the applicant responded to the denial notice.

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 employment verification letters from purported co-workers [redacted] fail to identify the place(s) where they and the applicant purportedly worked or the type of work they purportedly performed. They merely state that they and the applicant worked together. Therefore, the letters are of little probative value to the applicant's claimed employment in agriculture. Further, the letters appear to be refuted by the applicant's I-700 application on which he indicated that he first entered the United States in April 1986. The applicant has not specifically addressed nor overcome this fact on appeal.

Further, according to farm officials, [redacted] was not employed by either [redacted] or AJM Farms **during** the qualifying period. The applicant has not overcome this derogatory evidence which directly contradicts his 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.