U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

U.S. Citizenship and Immigration Services

PUBLIC COPY

[redacted]

24

MAY 27 2004

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

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. The file has been returned to the service center that processed 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

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 relating to the applicant's claim of employment for

On appeal, the applicant reaffirmed her claim to have performed agricultural field work for

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 I-700 application, the applicant claimed to have performed 129 man-days of qualifying agricultural employment from August 1985 to May 1986 for farm labor contractor Rosario Aguilar at various farms in Maricopa County, Arizona.

In support of her claim, the applicant submitted a corresponding I-705 affidavit and separate employment statement, both of which are signed by who is designated on the I-705 as both farm labor contractor and as foreman.

In the course of attempting to verify the applicant's claimed employment, the Immigration and Naturalization Service or the Service (now, Citizenship and Immigration Services, or CIS) acquired information which contradicted the applicant's claim. In a sworn statement before an officer of this Service on April 8, 1991, stated he supplied a total of approximately 2,100 fraudulent affidavits stating that the applicants worked for him for at least 90 days between May 1, 1985 and May 1, 1986. He went on to state that *all* of those affidavits were fraudulent, and that he never supplied a true affidavit confirming seasonal agricultural employment.

On May 22, 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.

In response to the Service's notice, the applicant submitted untranslated handwritten affidavits from three individuals, all of which are in Spanish. Any document containing foreign language submitted to the Service shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(3). Since the statements provided by the applicant are not accompanied by English translation, they can be of no probative value to her appeal.

On August 23, 1991, the director concluded the applicant had not overcome the derogatory evidence, and denied the application.

On appeal, the applicant asserted that she is not responsible for whether or not her purported employer, may have engaged in fraud, and that urrent problems with the Service have no bearing on the merits of her own employment claim.

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 purported employer, has admitted that *all* of the affidavits he signed on behalf of SAW applicants were *fraudulent*, and that he *never* supplied a true affidavit confirming seasonal agricultural employment. This derogatory information obtained by the Service directly contradicts the applicant's claim. The applicant has failed to rebut or overcome such derogatory evidence.

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.