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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: APR 27 2004

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 acquired by the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) relating to the applicant's claim of employment for owner of Mariani Orchards.

On appeal, the applicant reiterates his claim to eligibility for temporary residence as a special agricultural worker.

A subsequent review of the record revealed that the applicant may not have received correspondence relating to the denial of his application. Therefore, the AAO remailed copies of both the notice of intent to deny and notice of denial to the applicant on April 30, 2001.

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 Immigration and Nationality Act (INA) 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 131 man-days cultivating fruit trees fo owner of in Morgan Hill, California from June 1, 1985 to October 26, 1985.

In support of the claim, the applicant submitted a Form I-705 employment affidavit and a separate employment letter, both purportedly signed by The applicant also included a separate man days breakdown purportedly listing the amount of hours worked, salary paid, and taxes withheld during his employment.

In attempting to verify the applicant's claimed employment, CIS acquired information which contradicted the applicant's claim. Specifically, the purported signatures of on the applicant's supporting documents are visibly and significantly different from authentic exemplars signature.

On April 30, 1992, the director attempted to advise the applicant in writing of the adverse information, and of his intent to deny the application. The record shows that the notice was returned by the United States Postal Service marked as "refused." As noted above, the applicant was subsequently provided with a copy of the notice of intent to deny and thereby informed of the adverse information contained therein.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application.

On appeal, the applicant states that it his belief that he is eligible for temporary residence as a special agricultural worker under section 210 of the INA. However, the applicant failed to address the fact that the purported signatures o contained in his supporting employment documents visibly and significantly differ from the true and correct signature o In addition, the applicant failed to provide any explanation as to why he has not obtained further employment documentation from i if he had in fact worked as claimed.

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 alleged signatures of [redacted]hat are contained in the applicant's supporting documentation are significantly different from [redacted] actual signature. The applicant has not overcome such derogatory evidence. 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.