U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

PUBLIC COPY

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

U.S. Citizenship and Immigration Services

L4

[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:

Attached 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 provided to the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) regarding the applicant's claim of employment for at

On appeal, the applicant reaffirms his claim of employment for The applicant submits a brief and additional documentation in support of his appeal.

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 (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 worked 96 man-days picking citrus fruit for at " from November 1985 to March 1986.

In support of his claim of employment, the applicant submitted a Form I-705 affidavit and a separate employment letter, both purportedly signed by On the Form I-705 affidavi indicated that the applicant worked at "Rio Bravo" in Kern County, California from November 1, 1985 to March 12, 1986.

In attempting to verify the applicant's claimed employment, the director acquired information which contradicted the applicant's claim. The payroll secretary of Nickel Enterprises, parent company of h, stated that contract expired in January 1986 and that d not provide any workers after that date. This information has since been corroborated by the operations manager of Nickel Enterprises, who asserted that Jesus Camacho's employment at Rio Bravo Ranch's farming operations ended January 15, 1986.

On January 15, 1992, the director advised the applicant in writing of the adverse information obtained regarding claims of agricultural employment for and o a , and of his intent to deny the application. The applicant was granted thirty days to respond. While the record shows that the applicant failed to respond to the notice, he subsequently claimed he did in fact submit a response to the notice of intent to deny. Therefore, any material purportedly submitted by the applicant in response to this notice shall be incorporated into his appeal and discussed below.

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

On appeal, the applicant reaffirms his claim of employment for but revises this claim by indicating that he had been employed b at various farms in Kern County, California. However, the applicant has diminished his credibility by revising his claim of employment for nly after being confronted with adverse information regarding the original farm where he claimed to have worked for Mr. Furthermore, the applicant provided no explanation as to why he, on the Form I-700 application, and on the supporting documentation, listed only Rio Bravo Ranch if in fact the applicant had worked at other farms. In addition, the applicant failed to specify the name of any of these other farms where he purportedly worked for Therefore, it cannot be concluded that the applicant's revised claim of

employment for establishes the performance of at least 90 man days of qualifying agricultural services during the eligibility period.

In support of this revised claim of employment, the applicant submits a co-worker affidavit signed b declared that he and the applicant worked together cultivating oranges and lemons at various sites in the Bakersfield, California area for during the period from May 1, 1985 to May 1, 1986. also declared that he was already a field worker when the applicant first arrived in the Bakersfield, California area to work fo n September 1985. However, did not specify the exact dates the applicant worked with In addition, declaration that the applicant began working for n September 1985 directly contradicts the applicant's claim that he was employed by eginning in November 1985. Furthermore failed to specify the name of any of the farms where he and the applicant purportedly worked fo Therefore, the affidavit of annot be considered as credible documentation which would tend to corroborate either version of the applicant's claim of employment fo

The applicant submits a photocopy of a notarized statement signed by declared that was "...used as a geographical description of some of the places and companies that I was working for at the time." stated, had nothing to do with [the applicant's name] because he was employed by me and my company only. further contended that he was released from on March 6, 1986. While provided the names of six of the farms and companies for which he purportedly worked, he failed to provide any explanation as to why these names were not listed on either the Form I-705 affidavit and separate employment statement submitted in support of the applicant's claim. In addition, the statement that the applicant had nothing to do with directly contradicts the fact that Mr. specifically listed as the location the applicant worked on the Form I-705 affidavit. Furthermore, has seriously impaired his credibility by maintaining that he continued working at til March 6, 1986, when officials of have affirmed that did not provide laborers to Ranch after January 15, 1986. Without any documentation to corroborate the assertions contained in tatement, such assertions cannot be considered persuasive.

The applicant also submits an acquaintance affidavit signed by declares that he has personal knowledge that the applicant performed qualifying agricultural services with lemons and oranges for in the Bakersfield, California area during the period from May 1, 1985 to May 1, 1986. Mr. states that his personal knowledge of the applicant's employment was based on the fact that he and the applicant saw each other frequently in the fields and that he visited the applicant at his residence on weekends. Howeve did not specify the exact number of days the applicant worked, the actual dates of such employment, and the names of the farms where such work was purportedly performed.

The applicant also submits a brief in which he contends that the documentation submitted in support of his claim of employment for was sufficient to meet his burden of proof regarding the production of evidence to establish that he performed at least 90 man-days of qualifying agricultural employment during the eligibility period under the standard set forth in *United Farm Workers (AFL CIO) v. INS*, Civil No. S 87 1064 JFM (E.D. Cal.). The applicant declares that the documentation that he submitted was sufficient to overcome the adverse evidence relating to therefore shifting the burden of proof to the CIS to show specific evidence to disprove his claim of employment. However, the applicant's original claim of employment and supporting documentation cannot be considered credible because officials of Nickel Enterprises, parent company of Rio Bravo Ranch, provided information that employment at farming operations ended January 15, 1986. The applicant's revised claim of employment for and the documentation submitted in support of this revised claim must be deemed questionable at best because of the contradictions and discrepancies cited above. Therefore, the applicant has not met his burden of proof regarding the production of

evidence to establish that the applicant performed at least 90 man-days of qualifying agricultural employment during the eligibility period.

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*, id.

The applicant's initial claim of employment for lacking in credibility due to the adverse evidence. Specifically, officials of parent company of Rio Bravo Ranch, stated that Mr. contract expired in January 1986 and that did not provide any workers after January 15, 1986. The applicant failed to overcome the derogatory evidence which directly contradicted his original claim of employment for

The validity of the applicant's revised claim of employment for must be deemed questionable at best because of the contradictions, discrepancies, and omissions discussed above. Under these circumstances, it cannot be concluded the applicant has credibly established that he performed at least 90 man days of qualifying agricultural employment during the statutory period ending May 1, 1986. Consequently, the applicant has not demonstrated his eligibility for temporary resident status as a special agricultural worker.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.