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

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: MAR 16 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:

[redacted]

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.

for

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was initially denied and reopened by the Director, Western Service Center. The matter was subsequently remanded by the Administrative Appeals Office (AAO) and then denied again by the Director, California Service Center. The matter is now before the AAO on appeal. The appeal will be dismissed.

Both directors 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. These decisions were based on adverse information acquired by the Service (now Citizenship and Immigration Services, or CIS) relating to the applicant's claim of employment fo

On appeal from the initial denial, the applicant reaffirmed his claim to have performed more than 90 man-days of qualifying agricultural services in the twelve-month period ending May 1, 1986. The applicant also requested a copy of the record of proceedings.

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 300 man-days harvesting garlic for Valle Verde Farms in Huron, California from February 1985 to May 1986. It must be noted that the applicant has never submitted any supporting documentation to corroborate the only claim of agricultural employment listed on the Form I-700 application. Furthermore, the applicant has never provided any explanation for his failure to provide such supporting documentation.

The applicant submitted an employment letter purportedly signed by Mr indicated that he was a farm labor contractor who employed the applicant for 261 man-days harvesting grapes at an unspecified location from April 1985 to September 1986. Mr. included a man-days breakdown that reflects that the applicant worked 132 man-days during the eligibility period from May 1, 1985 to May 1, 1986.

It is noted that the applicant also submitted an employment letter signed b While this letter indicates that the applicant also performed agricultural services for Mr. such work occurred both prior to and after the eligibility period from May 1, 1985 to May 1, 1986. Therefore, this claim of employment need not discussed further.

In attempting to verify the applicant's claimed employment, CIS acquired information which contradicted the applicant's claim. Specifically, the purported signature of Juan Cisneros on the applicant's employment letter is visibly and significantly different from authentic exemplars of Mr signature.

On September 27, 1991, CIS attempted to advise the applicant in writing of the adverse information, and of CIS's intent to deny the application. However, the record shows that the notice containing this information was returned by the United States Postal Service marked as "attempted-not known."

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

On appeal, the applicant reaffirmed his claim of agricultural employment and indicated that he never received CIS correspondence relating to the denial of his application. The applicant also requested a copy of the record of proceedings.

The record shows that CIS complied with the applicant's request and mailed a copy of the record, including copies of both the Notice of Intent to Deny and Notice of Denial, to him on March 22, 1993. On March 23, 1993, the director issued a notice informing the applicant that the matter was being reopened in order to issue a new decision relating to his application.

In response, the applicant's representative submitted a brief in which he asserted that the copy of the record sent to the applicant did not contain an exemplar of signature. However, the record contains a "FOIA File Maintenance Worksheet" that was compiled on March 15, 1993, the date the record was actually copied for the applicant. This worksheet reflects that the applicant was provided a copy of the record as it was constituted on that date, with only three partial exemptions executed out of a total of forty-five items contained in the record. Such exemptions from disclosure are made as a matter of law under the Freedom of Information Act, and any issue relating to such exemptions is not within the jurisdiction of this office.

The record shows that the matter was subsequently forwarded in error to the AAO. Therefore, on April 14, 1999, the AAO remanded the case in order that a new decision be issued. On April 16, 2003, the matter was reopened and denied again by the Director, California Service Center. The director informed the applicant that the application was being denied once again because of adverse information relating to his claim of employment for Most significantly, the director cited the fact that the purported signature of on the applicant's employment letter is visibly and significantly different from authentic exemplars of Mr. signature. The applicant was granted thirty days to supplement his prior appeal. However, as of the date of this decision, neither the applicant nor his representative has submitted any additional material to supplement the appeal.

The applicant failed to address the fact that the purported signature of contained in his employment letter visibly and significantly differs from the true and correct signature of Mr. In addition, the applicant failed to provide any explanation as to why he has not obtained further employment documentation from 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 signature of that is contained in the applicant's supporting document is significantly different from Mr. 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.