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

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: MAR 18 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 Service (now Citizenship and Immigration Services, or CIS) relating to the applicant's claim of employment for

On appeal, the applicant references the employment letter from "Yes I ask for pardon for the error I committed, but, it was like all others that saw the opportunity of a [lifetime]." The applicant continues, "I took a chance, but I see that luck was not on my side." The applicant submits documentation in support of the 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 (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 119 man-days cultivating grapes for County, California from May 1985 to October 1985.

In support of the claim, the applicant submitted an employment letter purportedly signed by indicated that he was a farm labor contractor who employed the applicant for 271 man-days cultivating grapes at an unspecified location from April 1985 to September 198 included a man-days breakdown that reflects that the applicant worked 137 man-days during the eligibility period from May 1, 1985 to May 1, 1986.

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

On February 5, 1992, CIS advised the applicant in writing of the adverse information, and of CIS's intent to deny the application. The applicant was granted thirty days to respond to the notice. The record shows that the applicant failed to submit a response to this notice.

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

On appeal, the applicant admits that he was aware that he submitted a fraudulent employment letter to support his claim to have performed qualifying agricultural services during the eligibility period. While the applicant now submits another separate employment letter reflecting agricultural employment with such employment occurred from August 1986 to April 3, 1993, the date the letter was executed. Therefore, such employment cannot be considered as qualifying as it took place after the expiration of the twelve-month eligibility period ending May 1, 1986.

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 actual signature. The applicant has not overcome such derogatory evidence. Rather, the applicant acknowledges his error in submitting a fraudulent document. 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.