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U.S. Citizenship and Immigration Services

[redacted]

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MAY 25 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, reopened and denied again by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In both decisions, the directors denied the application was because the signatures of the applicant's purported employer did not match authentic exemplars of signature obtained by the Immigration and Naturalization Service or the Service (now, Citizenship and Immigration Services or CIS).

On appeal of the initial decision, the applicant reaffirmed her claim to having performed qualifying agricultural employment, and asserted that she had been unable to contact her purported employer,

The applicant did not respond to the center director's subsequent decision.

In order to be eligible for temporary resident status as a special agricultural worker (SAW), 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 Form I-700 application, the applicant claimed to have performed in excess of 90 man-days harvesting strawberries for t Cooperativa Central from May 1985 to October 1985. In support of the claim, the applicant submitted an employment letter purportedly signed by According to the employment letter, the applicant worked as follows: (1) from April 25, 1985 to October 15, 1985; and (2) from May 8, 1986 to October 3, 1986.

It is noted that the applicant's claimed employment from May 8, 1986 to October 3, 1986 is non-qualifying, as it occurred *subsequent* to the twelve-month qualifying period ending May 1, 1986.

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which cast doubt on the credibility of the applicant's documentation. The purported signatures o n the applicant's supporting documents appeared not to match the authentic exemplars of Mr. signature obtained by the Service.

On April 10, 1991, the Service advised the applicant 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 a personal statement in which she reaffirmed her claimed employment for The applicant also asserted that she had been unable to locate Mr. nd requested additional time in which to ascertain his whereabouts in order to obtain another signed employment statement.

On August 9, 1991, the Director, Western Service Center, concluded the applicant had not overcome the derogatory evidence, and denied the application.

On appeal of this decision, the applicant submitted an affidavit from who claimed to be a partner at Cooperativa Central, where the applicant claimed to have performed agricultural field work. The affiant, asserted that, based upon his "personal recollection," the applicant picked strawberries during 1985 and 1986, where she worked for and "from time to time" worked for Mr. s well.

However, the affiant, does not provide a certified copy of corroborating records, as required in 8 C.F.R. § 210.3(c)(3). Moreover, while makes reference to the applicant working for Mr. and for him "from time to time," he fails to specify either the number of man-days she worked or her exact dates of employment. Without this information, the affidavit from is of limited value. Nor does the affidavit clarify or resolve the adverse evidence acquired by the Service.

On August 24, 1995, subsequent to the applicant's appeal, the Legalization Appeals Unit or LAU (now, the AAO) remanded the case because the signature discrepancy cited by the Western Service Center director in his decision appeared to be minimal, and it did not appear to the LAU that a determination can be made without forensic analysis of the signatures. The LAU, in its remand, also noted that, according to an Information Digest in the record, . . is a fugitive, due to an outstanding warrant . . . alleging consumer fraud involving farm labor documents and conspiracy to sell farm labor documents." In view of this information, the LAU concluded that the authenticity of Mr. Sandoval's signature may not have been the only credibility issue involved in this case. The LAU concluded that, should any further such evidence be uncovered casting doubt on the credibility of this application, the applicant must be advised of such evidence prior to the rendering of a new decision.

On October 19, 2001, the Director, California Service Center, set aside the prior decision of the Western Service Center director and reopened the case. At the same time, the director issued a new notice of intent to deny, advising the applicant of additional adverse information obtained by the Service, and of the Service's intention to deny the application again. In his notice of intent, the director referenced the information communicated in the LAU's remand to the effect that the applicant's claimed employer, had become a fugitive in the wake of an investigation involving fraudulent farm labor documents. While this rendered suspect employment documents signed by the director acknowledged that Mr. nevertheless employ agricultural workers during the qualifying period. Thus, it was necessary to determine whether or not the SAW documents provided by the applicant were indeed signed by Mr.

On July 30, 1999, the California Service Center conducted a forensic analysis of the signatures on the applicant's documents, comparing them to the exemplars of actual signature which had been obtained by the Service. It was determined in the course of this forensic analysis that the applicant's documents were *not* signed by The applicant was granted thirty days to respond to the new notice of intent.

In response, the applicant submitted a photocopy of the previously-submitted affidavit from In addition, the applicant provided an affidavit from Pedro Del Real, who indicated he was associated with

Cooperativa Real. In his affidavit, asserted the applicant was a field worker who harvested strawberries for Nicolas Sandoval from May 1985 to May 1986.

However, as with the previously-submitted affidavit from that from Mr. Del Real is not accompanied by a certified copy of corroborating records, as required in 8 C.F.R. § 210.3(c)(3). Moreover, this affidavit similarly fails to specify either the number of man-days the applicant worked or her exact dates of employment. Nor does provide any independent, corroborative evidence or work records to support his assertions regarding the applicant's employment or even to establish his own business connections with Cooperativa Real. Without such information, neither of these affidavits carries any probative or evidentiary weight.

On June 14, 2002, the director concluded the applicant had not overcome the derogatory evidence referenced in the notice of intent, and denied the application. The record contains no response from the applicant to the director's subsequent denial decision.

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 signature discrepancy referenced by the director in his subsequent notice of intent, which was determined as a result of forensic analysis, calls into question the origin and authenticity of the applicant's documentation. The applicant has not overcome this derogatory evidence. The credibility of the applicant's claim and documentation is further diminished by the fact that her purported employer, has become a fugitive in conjunction with an investigation concerning his involvement with fraudulent farm labor documents. 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, she 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.