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U.S. Department of Homeland Security
20 Mass. Ave. N.W., Rm. A3042.
Washington, DC 20529

U.S. Citizenship and Immigration Services

L4

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: JAN 26 2005

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. All documents have been returned to the office that originally decided 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 on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish that he performed at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on information provided by for whom the applicant claimed to have worked.

On appeal, the applicant states that he did work for He indicates that he then went to work for another contractor,

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, provided he is otherwise admissible under section 210(c) of the Act and is 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 application, Form I-700, the applicant claimed to have harvested grapes for 94 days for Kern County, California from May to August 1985. In support of the claim, the applicant submitted two corresponding affidavits purportedly signed by He also provided numerous photocopies of a short form, "Statement for Thinning, Weeding and Blocking," purportedly representing different pay periods in 1985.

In the course of attempting to verify the applicant's claimed employment, the director acquired information which contradicted the applicant's claim. On January 4, 1988, in United States District Court, Southern District of California, led guilty to violating one count of 18 U.S.C. 1001 and 2, aiding and abetting false statements and writings used in support of applications filed for special agricultural worker status.

was informed that the Immigration and Naturalization Service (the Service) received more than 2,200 Special Agricultural Worker applications from individuals who allege to have worked for n Kern County, California. On April 10, 1990, provided a voluntary sworn statement "to assist this agency in clearing up problems that I and persons signing my name to these employment affidavits have created." In his statement, Mr. stated that the only work he performed in the years 1985 and 1986 relating to grapes was to rent tractors to harvesting crews and to periodically check these tractors for needed repairs. Mr. further stated that the only agricultural workers that he employed in the years 1985 and 1986 was a crew of 35 individuals that he hired from the local Bakersfield, California area. Mr. employed these workers to harvest cotton, and he did not sign any employment verification letters or I-705 affidavits for any of his cotton harvesting crew, as they were all legal residents of the United States.

specified that each and every employment verification letter and Form I-705 that indicates as the affiant is false, fictitious, and fraudulent. Mr. also advised the Service that he was aware of other individuals who signed verification letters using the name or and that these signed documents represent a forgery of his name and should also be considered false, fictitious, and fraudulent.

The applicant was advised in writing of the adverse information, and of the director's intent to deny the application. The applicant was granted thirty days to respond. He failed to do so, and the director concluded the applicant had failed to overcome the adverse information and denied the application.

On appeal, the applicant reiterates his employment claim, and states that Mr. had many farm workers working for him. He alleges that he worked for after he worked for Mr. and furnishes an affidavit from attesting to the Del Campo employment. Mr. does not explain what his position was for Mr. He states that the applicant worked exactly 90 days from September 1985 to February 1986.

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 applicant's alleged employer, admitted in a very clear and comprehensive statement that all documentation he signed on behalf of individuals applying for special agricultural worker status was false. That directly contradicts the applicant's claim. In spite of what the applicant states on appeal, he has not overcome this adverse evidence. Mr. who was convicted of aiding and abetting false statements and writings, has not recanted his admission that all documents were false, fictitious and fraudulent. As such, the documentary evidence submitted by the applicant regarding that claim cannot be considered as having any probative value or evidentiary weight.

An applicant raises serious questions of credibility when asserting an entirely new claim to eligibility once his initial claim has been called into question. The instructions to the application do not encourage an applicant to limit his claim; rather they encourage the applicant to list multiple claims as they instruct him to show the most recent employment first. The applicant did not claim agricultural employment for anyone other than Roy Perez during the three-year period of May 1, 1983 to May 1, 1986. In fact, the applicant claimed to have worked for American Marble Company from November 1986 on, apparently in non-agricultural work. It is not known why he would have declared that employment, and not the agricultural employment for Manuel

, if he really had worked for Mr. Furthermore, the applicant has not explained *why* he did not claim on his application to have worked for Mr. or why he did not claim it at his subsequent interview, or at least after he received the notice of intent to deny. For these reasons, it is concluded that his claim on appeal to have worked for is not credible.

The applicant has failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the twelve-month statutory period ending May 1, 1986. Consequently, he 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.