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U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

PUBLIC COPY

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: JUN 30 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. 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 Service by [redacted] for whom the applicant claimed to have worked.

On appeal, the applicant requested a copy of her legalization file. The Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS) complied with the request on June 30, 1993. The applicant thereafter stated that she worked 105 man-days, not 103 man-days and submitted additional evidence.

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 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 103 man-days of qualifying agricultural employment for [redacted] n Santa Barbara County, California from June 11, 1985 to February 17, 198"5".

In support of the claim, the applicant submitted an employment verification letter, purportedly signed by [redacted] The applicant also submitted a letter regarding more recent non-qualifying employment.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. On July 30, 1989, [redacted] stated in a letter to the Service that he had never been a farm labor contractor, but rather was a sharecropper, foreman, and supervisor at various farms in the Santa Maria Valley in Southern California. Mr. [redacted] stated that his signature had been falsified on employment documents, and submitted to the Service a list of 267 names belonging to the individuals who had actually worked for him or with him. The applicant is not named on this list. Mr. [redacted] also informed the Service that he worked during the qualifying period only from May 6, 1985 to December 17, 1985.

In the decision, the director noted that the signatures of [redacted] on the applicant's supporting documents were visibly and significantly different from authentic exemplars obtained by the Service. However, the signature discrepancy cited by the director is minimal, and it does not appear that a determination can be made without forensic analysis of the signatures.

On March 22, 1991, the applicant was advised 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. The record does not contain a response from the applicant.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application. On appeal, the applicant the applicant submitted three separate letters of acquaintance. The letter from [redacted] ndicated that she worked for [redacted] hat she and the applicant have been friends since their Employment. The letters from [redacted] and [redacted] ndicate that they became friends with the applicant when she moved to the trailer park where they were living.

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 applicant is not named on the list of employees provided by [redacted] The applicant has not addressed nor overcome this adverse evidence which directly contradicts the applicant's claim. 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.