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

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

U.S. Citizenship and Immigration Services

PUBLIC COPY

[redacted]

L4

FEB 03 2005

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. 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 (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 regarding the applicant's claim of employment for [redacted]

On appeal, the applicant indicated that he would submit a new affidavit from [redacted] The applicant later states that she promised to provide him with the affidavit; however, when he went to her home, she had moved. He indicates that he has been unable to find her. He furnishes an affidavit from a different employer that he had not claimed to have worked for.

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 to have thinned and weeded lettuce for 97 man-days for [redacted] from May 1, 1985 to May 1, 1986. In support of the claim, the applicant submitted two corresponding affidavits fro[redacted] who referred to himself as a foreman a[redacted]

In attempting to verify the applicant's claimed employment, the Immigration and Naturalization Service, or the Service (now, Citizenship and Immigration Services, or CIS) acquired information that contradicted the applicant's claim. Specifically[redacted] bookkeeper for [redacted] stated that [redacted] did not harvest lettuce until 1989. Furthermore,[redacted] tated that she never employe[redacted] [redacted] and that she always paid her employees by check, contrary to what [redacted] had indicated on the affidavit.

The director attempted to advise the applicant in writing of the adverse information obtained by the Service, and of the Service's intent to deny the application. However, the notice was returned to sender. The director concluded the applicant had not overcome the derogatory evidence, and denied the application.

On appeal, the applicant states that he was unable to obtain the affidavit from [redacted] at she had promised him. He furnishes an employment letter form [redacted] nd Sons, which indicates that he earned $1700 in 1985 and $1950 in 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 letter from [redacted] and Sons does not indicate in which parts of 1985 and 1986 the applicant worked. Therefore, even if the letter were to be accepted as valid proof, it is still not clear that the employment would have taken place within the 12-month period ending on May 1, 1986.

The applicant provides no explanation as to why his claim to have been employed by [redacted] was not advanced initially or at the subsequent interview regarding this application. 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. Issues of credibility arise when an applicant claims employment which is called into question through Service investigation, and later attempts eligibility with a different employer, heretofore never mentioned to the Service.

For these reasons, the applicant's new claim of employment for [redacted] will not serve to fulfill the requirements necessary for status as a special agricultural worker.

Concerning the applicant's initial claim [redacted] has stated that [redacted] who claimed to be a foreman and attested to the applicant's employment, was never employed by her. The applicant has failed to overcome this adverse evidence, which directly contradicts his employment claim. He has not provided any other evidence relating to this claim of employment. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has, therefore, 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, 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.