U.S. Department of Homeland Security
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[redacted]

U.S. Citizenship and Immigration Services

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FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: OCT 20 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 acquired by the Service relating to the applicant's claim of employment for [redacted] at [redacted]

On appeal, the applicant submitted a letter from [redacted]

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 102 man-days of qualifying employment for [redacted] at [redacted] in Kingsburg, California from May 1985 to May 1986. The applicant claimed to have worked under the name [redacted].

In support of his claim, the applicant submitted a corresponding Form I-705 affidavit signed by [redacted] It is noted that Mr. [redacted] did not state how he knew the applicant to be the same person known as "(alias)." 8 C.F.R. § 210.3(c)(2) clearly states that affidavits regarding the applicant's use of an alias must state "the basis of the affiant's knowledge of the applicant's use of the assumed name." The documentation from [redacted] contains no such explanation, nor does it include an attached photograph of the applicant.

The applicant also submitted a photocopied Form W-2 Wage and Tax Statement indicating that [redacted] earned $4,663.71 working fo[redacted] Ranch in 1986. However, it appears that the Form W-2 has been altered and that the "1986" was added to an already existing form.

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. The Service obtained a letter from [redacted] Senior Accountant for [redacted] Certified Public Accountants on behalf of [redacted] GM for [redacted]. The letter included a list of the [redacted] employees from May 1, 1985 to April 30, 1986 along with their social security numbers (if any) and total earnings. The applicant's name does not appear on this list. The applicant's purported alias, [redacted] does not appear on the list either.

On June 26, 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 to the notice.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on January 22, 1992. On appeal, the applicant submitted a letter from [redacted] who stated that the applicant's name is not on the list of employees because only a few employees were paid by check. Mr. [redacted] stated that the checks were cashed and the money was divided among several employees, indicating that the applicant was one of those employees. Therefore, according to Mr. [redacted] applicant's name was not on the list of employees.

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.).*

Mr. [redacted] statement that only some employees were paid by check is not corroborated by any documentary evidence and is therefore not persuasive. As previously mentioned, the applicant is not named on the employee list attested to by the general manager of Levin & Carlson. Furthermore, a representative of [redacted] and [redacted] ndicated that all employees were paid by check rather than cash. The applicant has not overcome this derogatory information which calls into question the credibility of 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 establish credibly 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.