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U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
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U.S. Citizenship
and Immigration
Services

LI

FILE: [REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: NOV 03 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, remanded by the Legalization Appeals Unit (LAU), now the Administrative Appeals Office (AAO) and denied again by the Director California Service Center. The matter is now before the AAO on appeal. The appeal will be dismissed.

The directors 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]

On appeal from the initial denial, the applicant reaffirmed his claimed employment.

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 118 man-days of qualifying agricultural employment for [REDACTED] under farm labor contractor [REDACTED] from July 1985 to November 1985.

In support of his claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment statement, both signed by [REDACTED]

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. [REDACTED] stated in a letter dated January 19, 1990, that he did not begin his farm labor contractor business until May 31, 1986. He further stated that he had no record of the applicant's employment.

On January 29, 1991, the Service advised the applicant in writing of adverse information obtained by the Service, and of the Service's intent to deny the application. The record does not contain a response to the notice from the applicant.

The director determined that the applicant had failed to overcome the adverse evidence, and denied the application on June 3, 1992. On that appeal, the applicant reaffirmed his claim to eligibility.

Subsequently, the case was remanded by the LAU because the applicant had not been apprised of all of the adverse evidence in possession of the Service. The application was reopened and on November 22, 2004 the director issued a new decision denying the application. The applicant did not respond to that notice.

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.)*

[REDACTED] did not begin his farm labor contractor business until May 31, 1986 and has no record of the applicant's employment. The applicant has not overcome such derogatory 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.