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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
XRV 88 051 05076

Office: CALIFORNIA SERVICE CENTER

Date: MAR 06 2007

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. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, reopened, and denied again by the Director, California Service Center. The matter is now before the Administrative Appeals Office 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 legacy Immigration and Naturalization Service (INS) relating to the applicant's claim of employment for [REDACTED] at [REDACTED].

On appeal from the initial decision, the applicant reiterated his employment claim for [REDACTED] and submitted additional evidence in support of his appeal.

The applicant has not addressed the subsequent Notice of Decision or provided any evidence to overcome the director's findings.

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 worked 100 man-days picking citrus fruits for farm labor contractor [REDACTED] in Kern County, California from October 1985 to March 1986.

In support of the claim, the applicant submitted a Form I-705 affidavit and a separate employment statement, purportedly signed by [REDACTED] attesting to the applicant's employment at [REDACTED] from October 12, 1985 to March 23, 1986.

In attempting to verify the applicant's claimed employment, the legacy INS acquired information which contradicted the applicant's claim. The payroll secretary of Nickel Enterprises, parent company of [REDACTED] stated that Mr. [REDACTED] contract expired in January 1986 and that Mr. [REDACTED] did not provide any workers after that date. In addition, the signatures of [REDACTED] on the applicant's supporting documents did not appear to match those of authentic exemplars provided to the legacy INS.

On February 3, 1992, the applicant was advised in writing of the adverse information obtained by the legacy INS, and of its intent to deny the application. The applicant was granted thirty days to respond. The applicant, however, failed to respond to the notice.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on March 16, 1992. On appeal, the applicant reiterated his claim of employment for [REDACTED]. The applicant submitted two separate photocopied affidavits, both dated February 22, 1992 from [REDACTED]. In one affidavit, Mr. [REDACTED] reaffirmed the applicant's employment claim. In the other, the affiant asserted that "Rio Bravo" was merely a geographic description of some of the places and companies that he was working for at that time. The affiant also indicated that he was released from [REDACTED] on March 6, 1986.

In a further attempt to verify the applicant's claimed employment, the legacy INS acquired additional information which contradicted the applicant's claim. The payroll secretary of Nickel Enterprises, parent company of Rio

██████████ stated that Mr. ██████████ contract expired in January 1986 and that Mr. ██████████ did not provide any workers after that date. This information has since been corroborated by the operations manager of ██████████ who asserted that ██████████ employment at ██████████'s farming operations ended January 15, 1986.

In addition, ██████████ provided the legacy INS with the names of individuals to whom he issued employment verification documents along with exemplars of his signature. The legacy INS acquired photocopies of the labor receipts submitted to ██████████ by ██████████. The applicant's name did not appear on the lists provided by Mr. ██████████ and the signatures on the employment documents did not match the exemplars provided by Mr. ██████████.

On October 19, 2001, the director withdrew his previous decision, reopened the proceedings for review, and issued a new intent to deny notice. The applicant was advised in writing of the adverse information noted above obtained by the legacy INS. The applicant was also advised that his employment claim was not amenable to verification as neither he nor Mr. ██████████ provided documentation attesting to another worksite. The applicant was granted thirty days to respond. The applicant, however, failed to respond. Accordingly, on June 24, 2004, the director denied the application.

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 signatures of ██████████ appearing on the last affidavits submitted from Mr. ██████████ were notarized, theoretically indicating that he demonstrated his identity during that process. It is concluded that, in the absence of a forensic examination which indicates the signatures are not authentic, this not a valid basis for denial.

While the affidavit attributed to ██████████ contended that he worked for several enterprises which purchased commodities from ██████████, the affiant has submitted no evidence from any of the companies named. The affiant's assertion that he was released by ██████████ on March 6, 1986 is also not supported by any independent, corroborative evidence to demonstrate that he was in fact associated with Rio Bravo as late as March 1986.

Officials of Nickel Enterprises have confirmed that ██████████ did not work at ██████████ after January 15, 1986. The applicant has seriously impaired his credibility by maintaining that he worked at ██████████ until March 23, 1986, but submitting no credible documentary evidence in support of this contention. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

It is noted that, in a letter dated November 5, 1993, the operations manager of ██████████ informed the legacy INS that, according to their records, ██████████ "supplied labor for our farming operations

at various times during the period May 1, 1985 through May 1, 1986 . . . Since (January 15, 1986), they were no longer used to provide labor service for [REDACTED] . . . they provided labor to [REDACTED] a total of 77 days, from May 1, 1985 to January 15, 1986."

The above letter indicates that [REDACTED] did, in fact, consist of more than one farming operation, and that [REDACTED] did provide labor for these operations. However, the credibility of the applicant's claim is undermined by Mr. [REDACTED] statement that the [REDACTED] provided labor to [REDACTED]'s farming operations for less than 90 days during the qualifying period, and that the Camachos did not provide any labor to the farm after January 15, 1986.

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.