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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: MAR 07 2006
XSA 88 528 02055

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.

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, and is now before the Administrative Appeals Office 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 legacy Immigration and Naturalization Service (INS) relating to the applicant's claim of employment for [REDACTED] at [REDACTED].

On appeal, the applicant submits additional documentation in an effort to support his claim of 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 to have worked 96 man-days harvesting citrus fruits for farm labor contractor [REDACTED] in Kern County, California from October 1985 to February 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 23, 1985 to February 28, 1986.

In attempting to verify the applicant's claimed employment, the legacy Immigration and Naturalization Service (INS) acquired information which contradicted the applicant's claim. The payroll secretary of Nickel Enterprises, parent company of [REDACTED] Ranch, stated that Mr. [REDACTED] contract expired in January 1986 and that Mr. [REDACTED] did not provide any workers after that date. This information has since been corroborated by the operations manager of [REDACTED] who asserted that [REDACTED] employment at [REDACTED] farming operations ended January 15, 1986.

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 April 4, 1991 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. In response, the applicant submitted an additional employment affidavit from [REDACTED] who asserted that "[REDACTED]" 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.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application July 18, 1991. On appeal, the applicant submits an affidavit from [REDACTED] who indicated that he was a co-worker of the applicant between 1985 and 1986 while working for [REDACTED]. The applicant also submits a photocopy of Mr. [REDACTED] affidavit previously submitted in response to the Notice of Intent to Deny.

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 signature of [REDACTED] appearing on the affidavits is not significantly different than the known exemplar of his signature. Furthermore, it is noted that the last affidavit submitted from Mr. [REDACTED] was 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 [REDACTED] contended that he worked for several enterprises which purchased commodities from [REDACTED] the affiant has submitted no evidence from any of the companies named. The affiant's assertion that he was released by [REDACTED] on March 6, 1986 is also not supported by any independent, corroborative evidence to demonstrate that he was in fact associated with [REDACTED] as late as March 1986.

Officials of Nickel Enterprises have confirmed that [REDACTED] did not work at [REDACTED] after *January 15, 1986*. The applicant has seriously impaired his credibility by maintaining that he worked at [REDACTED] until *February 28, 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 [REDACTED] informed the Service that, according to their records, [REDACTED] "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] Ranch 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]'s statement that the [REDACTED] provided labor to [REDACTED] farming operations *for less than 90 days during the qualifying period*, and that the [REDACTED] did not provide any labor to the farm after January 15, 1986.

Even if it were to be determined that the applicant did work for Mr. [REDACTED] it could not be concluded that he worked at least 90 days as the period from October 23, 1985 to January 15, 1986 does not encompass 90 days.

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.