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FILE: [REDACTED]
XST 88 093 02040

Office: CALIFORNIA SERVICE CENTER

Date: **SEP 25 2008**

IN RE: Applicant:



APPLICATION: Application for Temporary Resident Status under 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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: This matter is an application for temporary resident status as a special agricultural worker that was denied by the Director, Western Service Center and came before the Administrative Appeals Office (AAO) on appeal. The AAO remanded the matter in order to provide the applicant with a copy of the record. The case was returned to the AAO and the matter is again before the 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 Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services or CIS) relating to the applicant's claim of employment for [REDACTED]

On appeal, the applicant submitted a Freedom of Information Act request for a copy of the record. The record shows that the Service subsequently complied with the request and provided him with a copy of the record on November 13, 2000.

The applicant subsequently put forth a new claim of employment for [REDACTED] by submitting two separate employment documents signed by [REDACTED]. Therefore, such documentation shall be incorporated into the applicant's appeal.

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 Immigration and Nationality Act (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 110 man-days cultivating cherries, grapes, and apricots for [REDACTED] at various farms in San Joaquin County, California, from May 1, 1985, to May 1, 1986.

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

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. [REDACTED] and his wife, [REDACTED] both provided the Service with exemplars of their signatures. [REDACTED] also provided an exemplar of her signing her husband's name on his behalf. The signatures on the applicant's supporting documents are visibly and significantly different from the authentic exemplars obtained from [REDACTED] and [REDACTED] by the Service.

On January 28, 1992, the applicant was advised in writing of 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 shows that the applicant failed to respond to the Service's notice.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on March 10, 1992.

On appeal, the applicant put forth a new claim of employment for [REDACTED] by submitting a Form I-705 affidavit and a separate employment affidavit both of which are signed by Mr. [REDACTED]. [REDACTED] testified that he employed applicant for 103 man-days budding and grafting cherries and grapes as well as general agricultural work at various farms in San Joaquin County, California and Napa County, California from January 3, 1986 to May 1, 1986 in both of these supporting documents. However, the applicant failed to provide any explanation as to why his new claim of employment for [REDACTED] was not listed on the Form I-700 application and was only advanced after he had been confronted with adverse information regarding his original claim of employment for [REDACTED]. More importantly, the applicant failed to address the visible and significant discrepancy between the purported signatures of [REDACTED] on the supporting documents originally submitted with Form I-700 application and authentic signature exemplars obtained from [REDACTED]. Consequently, neither the applicant's original claim of employment for [REDACTED] nor his new claim of employment for [REDACTED] can be considered as credible.

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. June 15, 1989).

The signature discrepancy noted by the director calls into question the origin and authenticity of the applicant's documentation relating to his original claim of employment for [REDACTED]. The applicant has not overcome this derogatory evidence. The validity of the applicant's new claim of employment for [REDACTED] advanced on appeal must be deemed questionable at best. 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.