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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

[redacted]

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FILE: [redacted] Office: TEXAS SERVICE CENTER Date: AUG 09 2010

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:

[redacted]

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.

Elizabeth McCormack

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was initially denied by the Director, Harlingen District Office. The case was reopened and the Director, Southern Service Center denied the application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application, finding the applicant failed to establish that he performed at least 90 man days of qualifying agricultural employment during the twelve-month period ending May 1, 1986 under the Group II Special Agricultural Worker (SAW) program. The director further found that the applicant failed to establish that he accrued 90 man-days of qualifying agricultural employment during each of the three twelve-month periods ending May 1, 1984, May 1, 1985, and May 1, 1986 under the Group I SAW program

On appeal, the applicant asserts that he did not receive the directors' decisions. He subsequently filed a request for a copy of his record of proceedings pursuant to the Freedom of Information Act. The request was proceed on March 8, 2001.

In order to be eligible for temporary resident status as a special agricultural worker under Group II, an alien must have engaged in qualifying agricultural employment for at least 90 man days during the twelve month period ending May 1, 1986, provided he is otherwise admissible under the provisions of section 210(c) of the Act and is 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 application, Form I-700, the applicant claimed to have worked 58 days cutting beets, turnips and cauliflower for [redacted] n the twelve-month period ending on May 1, 1986.[1] In support of his claim, he submitted a Form I-705 affidavit indicating that the applicant worked for 45 days harvesting cantaloupe from March 28, 1986 to December 19, 1986 and worked 52 man-days between January 1987 and May 8, 1987 for [redacted] The applicant also submitted original receipts for agricultural labor performed during the qualifying period. The receipts are in the name of [redacted] The applicant indicated on his Form I-700 that he had used the assumed name of [redacted] but he failed to establish that he used an assumed name.

The regulation at 8 C.F.R. § 210.3(c)(2) states:

> (2) *Assumed names* - (i) *General*. In cases where an applicant claims to have met any of the eligibility criteria under an assumed name, the applicant has the burden of proving that the applicant was in fact the person who used that name.

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[1] He failed to indicate where he performed this labor and whether [redacted] was affiliated with either [redacted]

> (ii) *Proof of common identity*. The most persuasive evidence is a document issued in the assumed name which identifies the applicant by photograph, fingerprint or detailed physical description. Other evidence which will be considered are affidavit(s) by a person or persons other than the applicant, made under oath, which identify the affiant by name and address, state the affiant's relationship to the applicant and the basis of the affiant's knowledge of the applicant's use of the assumed name. Affidavits accompanied by a photograph which has been identified by the affiant as the individual known to affiant under the assumed name in question will carry greater weight. Other documents showing the assumed name may serve to establish the common identity when substantiated by corroborating detail.

In the instant case, the applicant failed to provide any affidavits that relate to the applicant's use of an assumed name.

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)*, Civil No. S-87-1064-JFM (E.D. Cal.).

The applicant has failed to credibly establish the performance of at least 90 man days of qualifying agricultural employment during the twelve month period ending May 1, 1986, or alternatively, at least 90 man-days of qualifying agricultural employment during the twelve month periods ending May 1, 1984, May 1, 1985, and May 1, 1986. Consequently, the applicant failed to establish his eligibility for temporary resident status as a special agricultural worker.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.