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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]

Office: CALIFORNIA SERVICE CENTER

Date: AUG 03 2003

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, and is now before the Associate Commissioner for Examinations on appeal. The case will be remanded for further consideration and action.

The director concluded the documentation submitted did not satisfy the applicant's burden of proof of having performed qualifying agricultural employment. This conclusion was based on derogatory evidence obtained from Service attempts to verify the applicant's claimed employment for sharecropper [REDACTED] at Blosser Ranch.

The director indicated in the notice of intent to deny that [REDACTED] was the owner of Blosser Berry Farms, and that Mr. [REDACTED] provided the Service with a list of sharecroppers who worked on his farm during the qualifying period. The applicant's claim was found not to be credible because [REDACTED] is not named on this list.

However, the record indicates that the applicant claims to have worked for "**Blosser Ranch**," not "**Blosser Berry Farms**." There is no indication in the record that "Blosser Ranch" and "Blosser Berry Farm" are one and the same enterprise. While the record does not contain any evidence verifying the existence of a "Blosser Ranch," there is no evidence that attempts to verify the existence of such a farm have been unsuccessful.

In addition, in the same letter to the Service in which he indicated that [REDACTED] was not employed by Kagawa Farms, Mr. [REDACTED] states that his farm "is not run by the name of Blosser Berry Farm."

While the director concluded the applicant's employment claim was not credible, the adverse evidence currently in this record is insufficient to support such a finding. If other significant adverse evidence exists or can be acquired, the director shall serve it on the applicant and accord him/her the opportunity to rebut it before a decision is rendered. A new decision must be rendered which, if adverse, may be appealed without fee.

ORDER: The case is remanded for appropriate action and decision consistent with the foregoing.