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U.S. Citizenship
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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: AUG 22 2011

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 Administrative Appeals Office (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 determination was based on information obtained by Citizenship and Immigration Services (CIS), formerly the Immigration and Naturalization Service (INS), regarding the applicant's claimed employment for [REDACTED] at Hubert Mettler Vineyard.

On appeal, the applicant requested a copy of his legalization file. CIS complied with the request on December 31, 1992. The applicant submitted additional evidence.

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 picked bell peppers and grapes for man-days from to for [REDACTED] for 129 man-days from August 9, 1985 to January 16, 1986 in San Joaquin County, California.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter, both signed by [REDACTED] Mr. [REDACTED] stated that the applicant was paid in cash.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. In October 1988, [REDACTED] stated in a telephone conversation with a Service officer that, during the qualifying period, [REDACTED] had worked for him only from August 28, 1985 to September 15, 1985. This period is only nineteen days long. On May 7, 1989, Mr. [REDACTED] stated in a letter to the Service that his farm "employed about 22 people during harvest which would last about two or three weeks." Mr. [REDACTED] added that, contrary to Mr. [REDACTED] assertion, "we do not pay cash wages."

On September 12, 1989, [REDACTED] pled guilty to document fraud charges.

On September 23, 1991, the applicant was advised in writing of the 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 applicant did not respond to that notice.

The director determined the applicant had failed to overcome the adverse evidence, and denied the application on November 20, 1991. On appeal, the applicant submitted seven (7), virtually identical in content affidavits from individuals claiming knowledge of the applicant's having been employed in agriculture. The affiants attest to having worked with the applicant for the same unnamed farm labor contractor, during an unspecified time period at unidentified locations. As such, the affidavits do not provide sufficient information regarding the purported employment and are therefore of little probative value to the applicant's claim. The applicant also submitted a form affidavit from an individual who stated that she could verify that the applicant worked for over 90 man-days in agriculture in the United States during the qualifying period. The affiant stated that she knew this because she worked in a store the applicant frequented when she worked in nearby fields. The applicant also submitted a personal declaration in which she described her purported employment with [REDACTED]

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.).

employed for only a 19-day period in 1985, and pays all employees by check. This directly contradicts the applicant's claimed employment for for 129 man-days. The applicant has not addressed this adverse evidence. Further, the applicant has not identified any other locations where she purportedly worked during her claimed 129 days employment. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

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.