U.S. Department of Homeland Security
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Washington, DC 20529

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U.S. Citizenship and Immigration Services

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FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: JAN 27 2005

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. 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 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 regarding the applicant's claim of employment for [redacted]

On appeal, the applicant states that he did work for [redacted] He asserts that he did work for the other employer as well, that he referenced in response to the letter of intent to deny.

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 application, Form I-700, the applicant claimed to have performed 124 man-days of agricultural employment from May 1985 to May 1986 for foreman [redacted] in Maricopa County, Arizona.

In support of the claim, the applicant submitted a Form I-705 affidavit and an employment verification letter, both allegedly signed by foreman [redacted] It was indicated on Form I-705 that the applicant worked at [redacted]

In attempting to verify the applicant's claimed employment, the director acquired information which contradicted the applicant's claim. The Immigration and Naturalization Service (the Service) attempted to contact [redacted] at the address he listed on a number of Form I-705 affidavits. This address belonged [redacted] advised the Service tha[redacted] had been employed on his farm as a full-time foreman beginning in March or April of 1984 until the time of his termination in May of 1988. As such, [redacted] stated tha[redacted] had no time to pursue other employment outside of his full-time job at [redacted], contrary to [redacted] assertions that he was employed at other farms during the qualifying period. [redacted] also stated that workers who had worked at his farm during the qualifying period, including those workers who were under the supervision of foreman [redacted] pproached him [redacted] for evidence of such employment. He further indicated that, for almost 25 years, he had kept extensive payroll records of individuals who worked on his farm.

In his letter, [redacted] informed the Service that [redacted] resided on his property, and that when [redacted] railer was cleaned [redacted] found approximately 50-75 signed, dated, and notarized verification letters with the space designated for the applicant's name left blank. [redacted] lso stated that it was common knowledge in the area that these letters were for sale.

On August 2, 1989, [redacted] was convicted of creating and supplying false writings and documents to be used in applying for temporary residence under the special agricultural worker program, in violation of 8 USC § 1160(b)(7)(A)(ii). As part of a plea agreement, [redacted] admitted in a signed sworn declaration that he had created and supplied false immigration documents for monetary gain to individuals he knew he had not employed, including signed and notarized letters and Form I-705 affidavits.

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 responded by submitting a letter in which he stated that he also worked for R.T.L. Farms from November 1985 to March 1986. He stated that R.T.L. Farms was no longer in business, so he could not acquire direct evidence from the foreman or owner. He provided letters from two people he claimed worked there, who supported his assertions. Nevertheless, the director denied the application.

On appeal, the applicant maintains that he did work fo[redacted] He explains that he did not claim the R.T.L. employment initially because he had no solid proof from that farm, and the local Service office therefore told him he could not use that claim of employment.

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.)

Based on the information acquired by the Service, it is concluded tha[redacted] did not work at any farm other than[redacted] during the period in question. It is significant tha[redacted] has not reaffirmed the applicant's claimed employment for him, and that[redacted] was convicted of supplying false writings and documents.

An applicant raises serious questions of credibility when asserting an entirely new claim to eligibility once his initial claim has been called into question. Regardless of what the applicant claims he was told by the Service office in terms of claiming employment, the instructions to the application do not encourage an applicant to limit his claim; rather they encourage the applicant to list multiple claims as they instruct him to show the most recent employment first.

Neither of the two individuals who stated the applicant worked at R.T.L. indicated that they had applied for special agricultural worker status, much less that it was granted. There has been no finding that aliens' claims to have worked there have been found by the Service to be valid.

For these reasons, the applicant's new claim of employment for R.T.L. will not serve to fulfill the qualification requirements necessary for status as a special agricultural worker.

The applicant's initial claim is lacking in credibility due to the adverse evidence. The credibility of the applicant's amended claim on appeal must be deemed questionable at best. Under these circumstances, it cannot be concluded the applicant has established that he performed at least 90 man-days of qualifying agricultural employment during the statutory period ending May 1, 1986. Consequently, the applicant has not demonstrated his eligibility for temporary resident status as a special agricultural worker.

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