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U.S. Citizenship
and Immigration
Services

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FILE: [Redacted]

Office: CALIFORNIA SERVICE CENTER

Date: JUN 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. 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 (SAW) was denied by the District Director, San Francisco, California, reopened and denied again by the Director, Western Service Center. The matter is before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In both decisions of denial, 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. The decisions were based on evidence adverse to the applicant's claim of employment for [REDACTED]

Although the applicant did not respond to the more recent decision of denial, his appeal taken from the previous decision of denial is still in effect. In that appeal, the applicant stated that he submitted a fictitious employment letter in order to apply for amnesty. The applicant's employment claim and the evidence are addressed below.

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 harvested fruits for Jesus Badilla for an unspecified number of man-days, from May 1985 to May 1986.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate form employment verification letter, both of which were purportedly signed by farm labor contractor Jesus Badilla. The Form I-705 indicated that the applicant worked at [REDACTED]

The district director concluded the applicant had submitted a fraudulent Form I -705 affidavit and denied the application on June 24, 1988. On appeal, the applicant admitted that he submitted fraudulent employment documentation. The applicant stated that he worked in agriculture, but could not locate his former employers [REDACTED] and [REDACTED] and that other individuals he worked for were afraid to admit they hired him without "residence papers."

Subsequently, the application was reopened and the applicant was informed in a Notice of Intent to Deny that officials at [REDACTED] had informed the Service that [REDACTED] was not a farm labor contractor for them during the qualifying period. The applicant was granted 30 days to respond. The applicant did not respond. Thereafter, on February 5, 1990, the center director denied the application. No further information, argument or documentation has been received from the applicant, or from anyone acting on his behalf. During the ensuing 13 years, the applicant has not submitted any information, argument, or documentation to challenge the more recent decision of denial.

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.)*.

On appeal, the applicant admitted that he submitted fraudulent documentation. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has, therefore, 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.