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U.S. Citizenship
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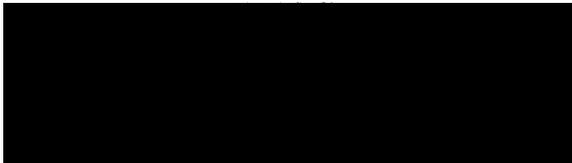
Office: CALIFORNIA SERVICE CENTER

Date: **OCT 19 2005**

IN RE: Applicant: 

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:



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

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, remanded by Administrative Appeals Office (AAO), reopened and denied again by the Director, California Service Center. The matter is now before the AAO on appeal. The appeal will be dismissed.

The director initially denied the application because the applicant failed to appear for his scheduled interview. The director subsequently 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 acquired by the Service relating to the applicant's claim of employment for [REDACTED] and [REDACTED] in the [REDACTED] Farm.

On appeal from the Director's initial decision, the applicant requested a copy of his legalization file. The Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS) complied with the request on May 25, 1993.

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 99 man-days harvesting fruits and vegetables for the [REDACTED] Farm in San Joaquin County, California, from May 1985 to May 1986. In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter, both signed by [REDACTED]. The applicant also submitted a letter of more recent non-qualifying employment.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. [REDACTED] co-owner of Del Porto Farms, stated to a Service officer that [REDACTED] Farms does not employ farm labor contractors. [REDACTED] informed the Service that the farm grows only sugar beets, alfalfa, sunflowers and wheat. These are not the crops referenced on the applicant's supporting documents.

Furthermore, on March 30, 1989 [REDACTED] stated in U.S. District Court for the Eastern District of California that she employed 180 individuals during the qualifying period and provided the Service with a list of those who were employed by her. The applicant is not named on that list of individuals who did work for Ms. [REDACTED] during the qualifying period.

On October 31, 1990, the director denied the application because the applicant failed to appear for his interview.

On July 3, 1995 the AAO remanded the case for the scheduling of an interview.

The case was reopened on February 15, 1996, the applicant was interviewed, and on February 14, 2001, 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 record does not contain a response to that notice.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on April 19, 2001. Since that date, the applicant has not made any statements regarding his reasons for appeal or the reasons for the denial of his application.

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.).

An official of [REDACTED] has stated that enterprise does not employ farm labor contractors. The applicant is not named on the list of employees who worked for [REDACTED] during the qualifying period. The applicant has not overcome this derogatory evidence which directly contradicts his claim. 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.