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U.S. Department of Homeland Security
20 Massachusetts Ave. NW, Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

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FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: APR 28 2005

IN RE: Applicant: [redacted]

PETITION: 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 the matter 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 Group 1 special agricultural worker was denied by the Director, Western Service Center, reopened and again denied by the Director, Western Service Center, for Group 2 eligibility. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application for Group 1 status because the applicant failed to establish the performance of at least 90 man-days of employment during the first and second Group 1 twelve-month statutory periods ending May 1, 1984 and May 1, 1985.

The director denied the application for Group 2 eligibility because the applicant failed to establish that he performed at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on information provided by [redacted] or whom the applicant claimed to have worked.

A Group 1 special agricultural worker is a worker who has performed qualifying agricultural employment in the United States for at least 90 man-days in the aggregate in each of the twelve-month periods ending May 1, 1984, 1985, and 1986, and has resided in the United States for six months in the aggregate in each of those twelve-month periods. 8 C.F.R. 210.1(f)

A Group 2 special agricultural worker is a worker who during the twelve-month period ending on May 1, 1986, has performed at least 90 man-days in the aggregate of qualifying agricultural employment in the United States. 8 C.F.R. 210.1(g)

In order to be eligible for temporary resident status, an alien must have engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986, provided he is otherwise admissible under section 210(c) of the Act and is not ineligible under 8 C.F.R. 210.3(d).

On the application, Form I-700, the applicant claimed to have performed 102 man-days harvesting grapes fo [redacted] Kern County, California from June 1985 to September 1985.

In support of the claim, the applicant submitted a Form I-705 affidavit and a separate employment statement purportedly signed by [redacted] In addition, the applicant submitted letters of more recent non-qualifying employment as a babysitter and a housekeeper.

The applicant has neither claimed nor documented any employment having been performed during the first or second Group 1 twelve-month qualifying periods ending, respectively, May 1, 1984 and May 1, 1985. Consequently, the applicant cannot qualify for temporary resident status as a Group 1 special agricultural worker.

In the course of attempting to verify the applicant's claimed employment for Group 2 eligibility, the Service acquired information which contradicted the applicant's claim. On January 4, 1988, in United States District Court, Southern District of California [redacted] pled guilty to violating one count of 18 U.S.C. 1001 and 2, aiding and abetting false statements and writings used in support of applications filed for special agricultural worker status.

[redacted] informed that the Service received more than 2,200 Special Agricultural Worker applications from individuals who allege to have worked fo [redacted] in Kern County, California. On April 10, 1990, [redacted] provided a voluntary sworn statement "to assist this agency in clearing up problems that I and persons signing my name to these employment affidavits have created." In his statement, Mr. [redacted] stated that the only work he performed in the years 1985 and 1986 relating to grapes was to rent tractors to harvesting crews and to periodically check these tractors for needed repairs. Mr [redacted] further stated that the only agricultural workers that he employed in the years 1985 and 1986 was a crew of 35 individuals that he hired from the local Bakersfield, California area. Mr. [redacted] employed these workers to harvest cotton, and he did not sign any employment verification letters or I-705 affidavits for any of his cotton harvesting crew, as they were all legal residents of the United States.

[redacted] specified that each and every employment verification letter and Form I-705 that indicates [redacted] or [redacted] as the affiant is false, fictitious, and fraudulent. Mr. [redacted] also advised the

Service that he was aware of other individuals who signed verification letters using the name and that these signed documents represent a forgery of his name and should also be considered false, fictitious, and fraudulent.

On January 8, 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. In response to the Service's notice, the applicant submitted a letter in which she stated that she had been unable to contact her employer, but that as soon as she was able to contact him, she would submit evidence to corroborate her claimed employment. To date, no additional evidence has been submitted.

The director concluded the applicant had failed to overcome the adverse information, and denied the application on January 17, 1992. The record does not contain any additional statements from the applicant.

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.).

The fact that the applicant's alleged employer, admitted that all documentation he signed on behalf of individuals applying for special agricultural worker status was false directly contradicts the applicant's claim. The applicant has not overcome this adverse evidence. As such, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has 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.