

Attorney: Past labor visas for Guam not issued by 'mistake'

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A BME & Sons, Inc. construction worker walks through the Alegria Townhouse Project building site in Tumon in this March 14, 2017, file photo. Company owner Bernie Maranan said he would lose 60 percent of his workers that month because of visa restrictions, making it unclear when the project would be completed. (Photo: Frank San Nicolas/PDN)

The federal government didn't issue thousands of foreign worker visas to Guam by "mistake," according to an attorney representing local contractors, who said the Guam visas stopped coming in recent years because federal immigration officials improperly changed the law for issuing those visas.

A federal judge this week denied a request by the contractors to hold the federal government in contempt of court. The contractors' attorney, Jennifer Davis, said the judge's ruling "is promising for the plaintiffs" as their case against the government moves forward.

More: [Judge deals blow to contractors desperate for foreign labor \(/story/news/local/2019/12/11/judge-deals-blow-contractors-desperate-foreign-labor/4394691002/\)](/story/news/local/2019/12/11/judge-deals-blow-contractors-desperate-foreign-labor/4394691002/)

More: [Guam Labor: H-2B workers continue to increase \(/story/news/2019/11/22/guam-department-labor-says-number-h-2-b-workers-continues-rise/4266850002/\)](/story/news/2019/11/22/guam-department-labor-says-number-h-2-b-workers-continues-rise/4266850002/)

The Guam Contractors Association and nearly a dozen businesses who use skilled foreign labor under the H-2B visa program sued in October 2016 after the federal government started to deny nearly all visa applications.

A foreign labor force that typically exceeded 1,000 had dwindled to about 50 because of the visa denials under the H-2B program.

Injunction

A preliminary injunction, issued by Chief Judge Frances Tydingco-Gatewood in January 2018, was expected to provide temporary relief to those businesses during the ongoing legal battle by prohibiting U.S. immigration officials from denying visa requests based on the issue of temporary need.

But Tydingco-Gatewood, in an order signed Wednesday, said her preliminary injunction never was intended to force the federal government to continue "rubber stamping" visa applications for Guam, as was the prior practice. She rejected a motion by the contractors to hold the federal government in contempt of court for continuing to deny visa applications.

According to Davis, the businesses are upset by Tydingco-Gatewood's decision, but she said the federal government's claim that it made a mistake when it issued visas to Guam in the past is "crucially important" to the case.

"The plaintiffs intend to prove that, despite the government's claims that they simply made thousands of mistakes, the facts will show that temporary need has been considered by the USCIS in approving these petitions over the decades and that those decisions were not just 'rubber-stamped,'" Davis stated. "Rather, the agency has simply changed its mind. The agency can certainly do that, but not without notifying the public and allowing for comment."

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