

Contempt motion against immigration service over H-2B applications denied

By Kevin Kerrigan - December 12, 2019



District Court Judge Frances Tydingco-Gatewood granted a motion to hold the U.S. Citizenship and Immigration Administration in contempt for failing to approve H-2B worker petitions for Guam contractors and others in need of skilled foreign workers for Guam.

Jeff Joseph, the attorney representing the Guam Contractors Association and others, sought an order of contempt against the USCIS for what he argued was the agency's "refusal to comply" with Judge Tydingco-Gatewood's January 2019 preliminary injunction against the immigration service.

However, in an order issued Wednesday, Judge Tydingco-Gatewood rejected th concluding that the contractors “have not shown by clear and convincing evidenc USCIS failed to abide by her prior injunction.

She noted that the immigration service has acknowledged that their prior H-2B a process “may have been unlawful” because “it may have involved the issuance c absent a true determination that all of the statutory requirements were met.”

The judge interpreted that statement to be a concession by USCIS that they wer “rubber-stamping” petitions in past years “without properly investigating or deter whether the temporary need requirement was met.”

“It is beyond dispute,” wrote the judge, “that the court has no authority to order a violate the law.”

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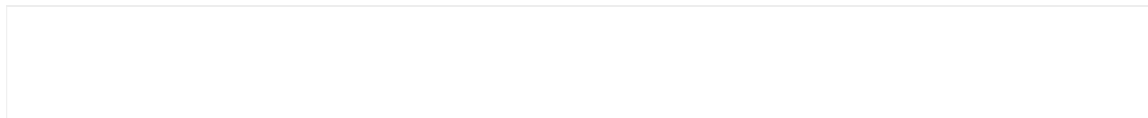
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