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U.S. Citizenship
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FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: JUL 20 2005
SRC 01 266 53374

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant petition for Alien Worker as a Skilled Worker or Professional pursuant to section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:

[REDACTED]

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. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, revoked approval of the immigrant visa petition. The director certified the matter to the Administrative Appeals Office (AAO) for review.¹ The decision of denial will be affirmed.

The petitioner is an individual who seeks to employ the beneficiary permanently in the United States as a household supervisor. As required by statute, the petition is accompanied by an individual labor certification, the Application for Alien Employment Certification (Form ETA 750), approved by the Department of Labor.

The director invalidated the labor certification, pursuant to 20 CFR 656.30(d), based upon a finding that it had been procured by fraud or willful misrepresentation. The director then revoked approval of the immigrant visa petition because it was no longer supported by a valid labor certification.

On appeal, counsel submits a brief and additional evidence.

The Form ETA 750 states that the proffered position requires that the beneficiary have two years of experience in the job offered. The Form ETA 750, like the Form I-140 petition, lists [REDACTED] as the beneficiary. The Form ETA 750 states that the beneficiary worked as a household supervisor for a couple in Marabella, Trinidad, from April 1988 to June 1990 and worked as a household supervisor for an individual in Williamsville, Trinidad, from July 1990 to June 1991.

The employment verification letters submitted, however, make clear that the employment listed on the Form ETA 750 is the work experience of the beneficiary's wife. No evidence was submitted to show that the beneficiary, Ramdeo Harrinarine, has any experience in the proffered position.

On November 6, 2003, the Texas Service Center issued a Notice of Intent to Revoke in this matter. The Service Center noted that the attorney who initially represented the petitioner had been convicted of several Federal offenses related to filing fraudulent immigrant visa petitions. The Service Center requested additional evidence that the job offer in the instant case is legitimate.

In response, the petitioner's current counsel, hereinafter counsel, submitted a copy of a letter, dated December 18, 2003. The letter states that the petitioner intends to hire the beneficiary, Ramdeo Harrinarine, as a butler/house manager.

Counsel also submitted an affidavit, dated December 17, 2003, from the beneficiary. In that affidavit the beneficiary provided what he swore to be his true employment history. That employment history does not include any of the positions listed on the Form ETA 750, the positions which showed that the beneficiary had the requisite experience for the proffered position and on the basis of which the labor certification was approved.

¹ The AAO has no authority over appeals from petitions denied or petitions revoked for the lack of a valid labor certification. The regulation at 8 C.F.R. § 103.5(a)(4) and (5) states, however, that a case for which no appeal procedure exists may be certified to the AAO. Because this matter was certified to the AAO, the AAO has jurisdiction.

On February 24, 2004 the Director, Texas Service Center found that approval of the Form ETA 750 had been obtained by fraud, invalidated the labor certification, revoked approval of the petition in this matter as not supported by a valid labor certification, and certified the matter to AAO.

On appeal, counsel does not argue that the labor certification in this matter was not approved as the result of fraud, but merely that the petitioner, the beneficiary, and the beneficiary's wife were not knowing participants in fraud.

With the appeal counsel submits a letter, dated March 17, 2004, from the beneficiary and his wife. That letter admits that the employment verification evidence submitted with the petition pertains to the work experience of the beneficiary's wife, rather than the beneficiary. The letter does not deny that the submission of that evidence was in furtherance of fraud, but denies that the beneficiary and his wife were knowing participants.

Counsel submits a similar letter, also dated March 17, 2004, from the petitioner.

The evidence of record indicates that the approved labor certification in this matter was obtained by fraud. On appeal, no evidence or argument has been submitted to demonstrate, or even allege, otherwise. The decision of denial will be affirmed.

ORDER: The decision of denial is affirmed.