

IN THE SUPERIOR COURT  
FOR THE  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

OFFICE OF THE ATTORNEY GENERAL  
and DIVISION OF IMMIGRATION  
SERVICES

Petitioners,

v.

REBECCA L. OBALLO,

Respondent.

Civil Action No. 98-790

**ORDER AFTER HEARING  
ON PETITION FOR ORDER  
TO SHOW CAUSE**

**I. PROCEDURAL BACKGROUND**

This matter came before the Court on August 18, 1998, at 1:30 p.m. in Courtroom A on Petitioner's petition for order to show cause. Robert Goldberg, Esq. appeared on behalf of Petitioners. G. Anthony Long, Esq. appeared with and on behalf Respondent Rebecca L. Oballo. The Court, having reviewed the memoranda, declarations, and exhibits, having heard and considered the arguments of counsel, and being fully informed of the premises, now renders its written decision.

**FOR PUBLICATION**

[p. 2]

## II. FACTS

Respondent Rebecca L. Oballo (hereinafter referred to as “Respondent”) entered the Commonwealth on October 22, 1995 as a non-resident worker after obtaining employment as a house worker. Respondent worked for the same employer from the date of her entry in the Commonwealth until her contract expired on March 13, 1998. On April 3, 1998, Respondent entered into an employment contract with a new employer within the same employment classification. On April 6, 1998, Mr. Andre Kosij, the owner of a local employment agency, submitted Respondent’s new contract and supporting employment documentation to the Department of Labor for processing. However, according to the Mr. Kosij , the intake officer at the Department of Labor refused to accept Respondent’s employment documentation after indicating that it was untimely.

On July 23, 1998, the Division of Immigration Services received a telephone call from the Commonwealth Health Center indicating that Respondent was on the premises. An officer from the Division of Immigration Services responded to the call and confronted Respondent. Respondent returned with the officer to the Immigration Services office where a review of Respondent’s immigration documentation confirmed that her entry permit had expired.

On July 24, 1998, Petitioners filed a petition for order to show cause why Respondent should not be deported from the Commonwealth.

## III. ISSUES

1. Whether Public Law 11-6 exempts Respondent from deportation?

## IV. ANALYSIS

In opposition to the petition for order to show cause, Respondent contends that she should not be deported because her new employment documentation was submitted within 45 days from the date of expiration of her prior employment contract as provided in the Rules and Regulations to Public Law 11-6. Therefore, she is exempt from deportation under Public Law 11-6. The Court disagrees. [p. 3]

Public Law 11-6

On March 27, 1998, Public Law 11-6 was signed into law to impose a moratorium on the hiring of nonresident workers in the Commonwealth.<sup>1</sup> However, the Legislature decided that in order

to accommodate the restricted labor pool created by the legislation, Public Law 11-6 would allow nonresident workers to seek new employment after their contract period without having to leave the Commonwealth. *PL 11-6, § 3(b); Rules and Regulations to Implement Public Law 11-6, The Moratorium on Hiring Nonresident Workers, § D(3)*. This was a departure from the previous laws which did not provide for transfers after the expiration of nonresident employment contracts. As such, the Rules and Regulations implementing Public Law 11-6 provide that after the expiration of a nonresident worker's contract, the employee has 45 days to secure new employment. *Rules and Regulations to Implement Public Law 11-6, The Moratorium on Hiring Nonresident Workers, § D(3)(b)*. If the employee is unable to secure new employment within 45 days, they must leave the Commonwealth or be subject to deportation. *PL 11-6, § 3(b)*.

In the instant case, Respondent contends that she should not be deported because she attempted to submit her new employment application within 45 days of the expiration of her prior contract. Therefore, she complied with Public Law 11-6 despite the Department of Labor's decision to reject her application at processing.<sup>2</sup> Aside from her attempt to file the application, it was proven at the hearing that Respondent's prior contract expired on March 13, 1998. Thus, pursuant to the Nonresident Workers Act, Respondent was required to exit the Commonwealth.<sup>3</sup> The 20-day grace [p. 4] period in which to effectuate her departure required that she leave on or before April 2, 1998.<sup>4</sup>

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<sup>1</sup> PL 11-6, "A bill for an act to impose a moratorium on the hiring of nonresident alien workers in the Commonwealth; and for other purposes." March 27, 1998.

<sup>2</sup> As an alternative argument, Respondent contends that it was improper for the intake personnel at the Department of Labor to refuse to accept her employment documentation for filing. However, pursuant to § D(3)(b) of the Rules and Regulations, an application that is facially deficient upon review by a member of the processing staff will not be accepted. As such, the intake officer had the authority to refuse Respondent's application.

<sup>3</sup> See generally, Public Law 3-66; 3 CMC § 4434(g); 3 CMC § 4440(a).

<sup>4</sup> *Id.*

Public Law 11-6 became effective on March 27, 1998, fourteen days after Respondent's contract expired. Because Respondent's contract expired before Public Law 11-6 was signed into law, the 45-day transfer provision in the Rules and Regulations would not apply to her. The Court finds no provision within Public Law 11-6 or the implementing Rules and Regulations which would bring Respondent with the realm of the new legislation. Therefore, Respondent was required to leave the Commonwealth no later than April 2, 1998.

#### **V. CONCLUSION**

For all of the reasons stated above, Respondent is ordered to be deported from the Commonwealth.

So ORDERED this 10 day of September, 1998.

/s/ Timothy H. Bellas \_\_\_\_\_

TIMOTHY H. BELLAS, Associate Judge