



**U.S. DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES**

DATE PREPARED 8-25-78

RE: BRYANT FARMS, CASE NO. 78-TLC-139

THIS DECISION BASED ON REQUEST OF DON DELAURENTIS, PARTNER, BRYANT FARMS, FOR EXPEDITED ADMINISTRATIVE-JUDICIAL REVIEW UNDER 20 CFR SECTION 655.212 FROM THE AUGUST 14, 1978, DENIAL FOR TEMPORARY LABOR CERTIFICATION BY CERTIFYING OFFICER BETTE F. ROY FOR 14 (FOURTEEN) WORKERS TO PICK APPLES FOR EMPLOYMENT PERIOD AUGUST 15 to NOVEMBER 1, 1978.

BRYANT FARMS APPLIED FOR FOURTEEN (14) WORKERS. REGIONAL ADMINISTRATOR ACKNOWLEDGED RECEIPT ON JUNE 14, 1978, ADVISED EMPLOYER THAT 60-DAY RECRUITMENT PERIOD BEGAN JUNE 13 AND ENDS AUGUST 14, 1978, AND FURTHER THAT JOB ORDER SHOULD BE PLACED THROUGHOUT NEW YORK STATE, REGIONS II, IV, VI, FLORIDA, AND TEXAS, EMPLOYER SHOULD ACTIVELY PARTICIPATE IN JULY 10 THROUGH 21 NORTH CAROLINA ITINERARY, AND ANY OTHER RECRUITMENT RA DEEMED APPROPRIATE.

RA IN DENYING CERTIFICATION ADVISED THAT TWO (2) SPECIFIC DOMESTIC CREWS AVAILABLE: CHARLES BRITTON WITH THIRTY (30) EMPLOYEES: AND DOUGLAS WITH ELEVEN (11) EMPLOYEES. SEE SECTION 655.206 (A) (1).

DOUGLAS CONTACTED EMPLOYER DIRECTLY; AND BRITTON RECRUITED IN COLUMBIA, SOUTH CAROLINA, APPARENTLY BY VALLEY GROWERS CO-OP. INC. (TO WHICH EMPLOYER IS A MEMBER) WAS SUPPOSED TO CONTACT BRYANT FARMS ON AUGUST 2 "BUT FAILED TO DO SO" (AUGUST 23, 1978, TELEGRAM FROM ACTING REGIONAL ADMINISTRATOR TO CHIEF ADMINISTRATIVE LAW JUDGE).

DELAURENTIS' ASSERTIONS IN FILING APPEAL AS TO DOUGLAS MAY NOT BE RECEIVED AS EVIDENCE (SECTION 655.212 (A)) ALTHOUGH INS MAY CONSIDER FURTHER EVIDENCE NOT BEFORE RA (8 CFR 214.2 (H) (3) (I)). SEE SECTION 655.204

(D) (3) (II). RECORD SUPPORTS CONTENTIONS ABOUT BRITTON GROUP.

IN CIRCUMSTANCES, THE DENIAL OF LABOR CERTIFICATION IS MODIFIED
RA SHALL GRANT TEMPORARY LABOR CERTIFICATION FOR ALIENS THAT
DOUGLAS GROUP CANNOT FURNISH.

FILE BEING SENT TO LOCAL DIRECTOR, INS. .

JOSEPH LANGBART
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