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## FOREIGN CHEFS GET TREAT IN COURT'S VISA RULING

By Joe Palazzolo  
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A federal appeals court in Washington has served up a treat for diners who demand authentic cuisine.

The U.S. Court of Appeals for the District of Columbia Circuit ruled Tuesday that foreign chefs with specialized knowledge acquired through cultural traditions, upbringing or life experience may qualify for visas to work in the U.S.

The ruling was a victory for upscale Brazilian steakhouse Fogo de Chao, an international chain whose 25 U.S. eateries import their chefs from the Rio Grande do Sul area of southern Brazil, where they are reared and trained in the "gaucho way" of roasting meats over pits of open fire for barbecues. (The base price for dinner in Fogo de Chao's Manhattan location: \$59.50 a person.)

Tuesday's ruling doesn't create an automatic path to the U.S. for the world's culinary artists, but it appears to soften a 2004 determination by the U.S. Citizenship and Immigration Services that foreign chefs "generally are not considered" to have the specialized knowledge required to qualify for a U.S. worker visa.

The so-called L-1 visas at issue in the case allow an international company—Fogo de Chao opened its doors in Brazil in 1979 and also has a restaurant in Mexico—to transfer an employee from one of its overseas locations to its U.S. operations for as many as five years, as long as the company can show the foreign worker has "specialized knowledge."

Fogo de Chao (pronounced fo-go dee shoun) has successfully obtained more than 200 such visas for its Brazilian-trained chefs, known as churrasqueiros, according to court documents. But a Citizenship and Immigration Services branch office in Vermont rejected one of the company's petitions in 2010, finding that its chefs' skills were not "so uncommon or complex that other chefs in the industry could not master them within a reasonable period of time."

An administrative appeals court agreed with the Vermont office's decision, as did a federal district judge presiding over Fogo de Chao's lawsuit challenging the denial of its petition. The D.C. Circuit ruled 2-1 that cultural knowledge "can be a relevant component" of specialized knowledge.

"We hold that the agency has not offered a reasoned analysis of why the statutory phrase 'specialized knowledge' would woodenly debar any and all knowledge acquired through one's cultural traditions, upbringing, or 'life experience,'" wrote Judge Patricia Millett.

The majority returned the case to immigration services and instructed the agency to draw its own line between "actual skills and knowledge derived from an employee's traditions and upbringing, and, on the other hand, the simple status of being from a particular region."

Judge Brett Kavanaugh, writing in dissent, said he was skeptical of the restaurant's argument that American chefs couldn't replicate the churrasqueiros' style.

“Put simply,” he added, “the record does not establish that Fogo de Chao’s Brazilian chefs possess skills that American chefs cannot learn within a reasonable amount of time.”

A Fogo de Chao lawyer didn’t have an immediate comment. A spokeswoman for Citizenship and Immigration Services said she couldn’t discuss the case because it was continuing.