



Issue Date: 20 April 2011

OALJ Case No.: 2011-TLC-00359

ETA Case No.: C-11042-27592

In the Matter of

PEARSON BROTHERS FARM,
Employer

Certifying Officer: William L. Carlson
Chicago Processing Center

ORDER OF DISMISSAL

On March 29, 2011, Pearson Brothers Farm (“the Employer”) filed a request for review in the above-captioned temporary alien labor certification matter. On April 6, 2011, this Office received notice from the Certifying Officer (“CO”) that based on a reevaluation of the outstanding issues, the Employer’s H-2A application had been certified. Accordingly, the CO requested dismissal of this appeal on the ground that it is moot. The Employer’s attorney objected to the dismissal of the appeal until he had the opportunity to verify that the Employer received the certification letter from the CO.

On April 18, 2011, the Employer’s attorney withdrew his objection and confirmed that the Employer received certification. The Employer argues that the delay in processing the Employer’s H-2A application has jeopardized the Employer’s time-sensitive agricultural tasks and requests that I include language in this Order making it clear that there was no factual or legal basis for the Department of Labor’s denial. I decline to do so. The CO has certified the Employer’s H-2A application, and therefore, the issue on appeal is moot. Moreover, as I do not have the administrative file or even a copy of the CO’s denial letter, it would be wholly inappropriate to speculate on the merits of this case. Finally, while I recognize that the appeal process did take time for the Employer, the CO’s reconsideration of its determination spared all parties and this Office the time and expense of a hearing. Such reconsideration of a determination is exactly what I encouraged in the Remand Order in *Virginia Agricultural*

Growers Association, Inc., 2011-TLC-273 (Feb. 11, 2011). In light of the foregoing, it is hereby **ORDERED** that this matter is **DISMISSED**.

A

WILLIAM S. COLWELL

Associate Chief Administrative Law Judge