

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 23 March 2016**

**OALJ Case No.:** 2016-TLC-00029  
**ETA Case No.:** H-300-16026-906951

*In the Matter of:*

**YOUNG HOLLOW NURSERY, INC.,**

*Employer.*

**Certifying Officer:** Charlene G. Giles  
Chicago National Processing Center

**Appearances:** Brandon E. Davis, Esq.  
Phelps Dunbar, LLP  
New Orleans, Louisiana  
*For the Employer*

Vincent C. Costantino, Esq.  
Office of the Solicitor  
U.S. Department of Labor  
Washington, D.C.  
*For the Certifying Officer*

**Before:** Joseph E. Kane  
Administrative Law Judge

**ORDER OF DISMISSAL**

This matter arises under the temporary agricultural employment provisions of the Immigration and Nationality Act, 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1184(c)(1), and 1188, and the implementing regulations at 20 C.F.R. Part 655, Subpart B. The H-2A program allows employers to hire foreign workers to perform agricultural work within the United States (“U.S.”) on a temporary basis. Employers who seek to hire foreign workers under this program must apply for and receive labor certification from the U.S. Department of Labor.<sup>1</sup> A Certifying Officer (“CO”) in the Office of Foreign Labor Certification of the Employment and Training Administration reviews applications for temporary labor certification. If the CO denies certification, an employer may seek administrative review or a de novo hearing before the Office of Administrative Law Judges.<sup>2</sup>

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<sup>1</sup> 8 U.S.C. § 1188(a)(1); 8 C.F.R. § 214.2 (h)(5)(A).

<sup>2</sup> 20 C.F.R. § 655.171.

Pursuant to 20 C.F.R. § 655.171, Young Hollow Nursery, Inc. (“Employer”) requested a *de novo* hearing regarding the Certifying Officer’s decision in the above-captioned H-2A temporary alien labor certification matter. On March 11, 2016, this case was assigned to me for hearing and decision. On March 11, 2016, I held a conference call with the parties to discuss how this case should proceed. Counsel for the Employer requested at least seven days to review the Administrative File. Counsel for the Certifying Officer (“Solicitor”) did not object. By Order dated March 14, 2016, I gave the Employer until March 21, 2016 to inform the Court how it would like to proceed with this case.

By e-mail dated March 21, 2016, counsel for the Employer stated the Employer “will not proceed with a *de novo* hearing. Rather, employer is inclined to have this matter remanded to the Certifying Officer for appropriate processing.” Thereafter, by e-mail attachment dated March 22, 2016, counsel for the Employer indicated it was writing “to confirm that Young Hollow Nursery, Inc. prefers to withdraw this appeal and will await the Court’s issuance of the appropriate order(s).”

In light of the Employer’s latest correspondence indicating its intent to withdraw this appeal, it is hereby **ORDERED** that this matter be, and hereby is, **DISMISSED**.

Joseph E. Kane  
Administrative Law Judge