U.S. Department of Labor

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Issue Date: 28 November 2016

OALJ Case No.: **2017-TLC-00006**
ETA Case No.: H- 300-16286--767101

In the Matter of:

P. MARIN HARVESTING, INC.,

Employer.

Certifying Officer: John Rotterman
Chicago National Processing Center

Before: Joseph E. Kane
Administrative Law Judge

ORDER DISMISSING CLAIM

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.[1] 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.[2]

Pursuant to 20 C.F.R. § 655.171, P. Marin Harvesting, Inc. ("the Employer") requested a de novo hearing on November 2, 2016 regarding the Certifying Officer's decision in the above-captioned H-2A temporary alien labor certification matter.[3] On November 7, 2016, this case was assigned to Administrative Law Judge Joseph E. Kane for hearing and decision..

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[1] 8 U.S.C. § 1188(a)(1); 8 C.F.R. § 214.2 (h)(5)(A).
[2] 20 C.F.R. § 655.171.
[3] *See* 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1184(c)(1), and the implementing regulations promulgated at 20 C.F.R. Part 655.

The parties participated in a telephone conference on November 14, 2016. During the telephone conference the parties agreed that this case should be dismissed and that the duplicate claim, 2017-TLC-00004, should be remanded for additional processing. On November 15, 2016, counsel for the Certifying Officer (the "Solicitor") filed a motion requesting that 2017-TLC-00004 be remanded to the Certifying Officer for additional processing pursuant to the agreement of the parties during the telephone conference. The Employer submitted a Motion to Withdraw claim 2017-TLC-00006 on November 18, 2016, in light of the remand of the duplicate claim.

Accordingly, in light of the foregoing, it is hereby **ORDERED** that this matter is **DISMISSED.**

Digitally signed by JOSEPH KANE
DN: CN=JOSEPH KANE,
OU=ADMINISTRATIVE LAW JUDGE,
O=US DOL Office of Administrative Law
Judges, L=Cincinnati, S=OH, C=US
Location: Cincinnati OH

JOSEPH E. KANE
Administrative Law Judge