



Issue Date: 17 December 2019

OALJ Case No.: 2020-TLC-00009
ETA Case No.: H-300-19275-164422

In the Matter of:

EVERGLADES HARVESTING & HAULING, INC.,
Employer.

ORDER OF REMAND AND ORDER GRANTING STAY OF BRIEFING DEADLINE

On October 31, 2019, Everglades Harvesting & Hauling, Inc. (“Employer”) requested a *de novo* hearing in the above-captioned H-2A temporary labor certification matter. This matter was assigned to the undersigned Administrative Law Judge for hearing and decision. A telephone hearing in this matter was held on December 10, 2019. At that time a briefing deadline was set for December 13, 2019, and then extended to December 16, 2019 at the joint request of the parties.

On December 16, 2019, the parties submitted a joint motion to stay the briefing deadline. In support of, and attached to, said motion labeled as “Attachment 1,” is the Order of Judge Richard J. Leon granting a Motion for Preliminary Injunction in litigation styled *Everglades Harvesting & Hauling, Inc. et al v. Eugene Scalia, sued in his official capacity, et al.*, Civil Case No. 19-3291 (RJL), currently pending in the United States District Court for the District of Columbia (hereinafter “*Everglades Harvesting Injunction*”).

Everglades Harvesting Injunction directs that the Certifying Officer “re-review” certain Denied applications filed by this Employer which would include the above captioned case currently pending before the undersigned Administrative Law Judge.

Paragraph 3 of the *Everglades Harvesting Injunction* states that it is “ORDERED that for any qualifying H-2A applications currently in the administrative review process, a CO will re-review such applications pursuant to the terms of this Order within seven days of that administrative review being completed or the application being remanded to the CO by the administrative law judge.” Paragraph 8 of the *Everglades Harvesting Injunction* states it is ORDERED that, throughout this administrative review process, the Secretary of Labor and his designees shall be bound by the terms of the ORDER.

ORDER

After duly considering the foregoing, the undersigned finds that the appropriate action at this time is to remand the current case for further processing by the Certifying Officer pursuant to the above cited *Everglades Harvesting Injunction*. Should the Certifying Officer's "re-review" of this matter again result in a Denial determination from which the Employer requests an appeal under 20 C.F.R. §655.171, Employer may request that the appeal be reassigned to the undersigned Administrative Law Judge for a continuation of the hearing process, at which time a new briefing schedule will be determined.

Accordingly, it is hereby ORDERED that the above-captioned case is remanded to the Certifying Officer for additional processing, consistent with this ORDER and the *Everglades Harvesting Injunction* cited above.

SO ORDERED.

DREW A. SWANK
Administrative Law Judge