

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 18 February 2020

OALJ Case No.: 2020-TLC-00035

ETA Case No.: H-300-19343-187845

In the Matter of:

EICHELBERGER FARMS, LLC

Employer

Appearances: Wendel Hall, Esq.
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For the Employer

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For the Certifying Officer

ORDER OF DISMISSAL

This proceeding arises under the temporary agricultural labor or services provision of the Immigration and Nationality Act, 8 U.S.C. § 1101 (a) (15) (H) (ii) (a) (the H-2A nonimmigrant visa program), and the associated regulations promulgated by the United States Department of Labor at 20 C.F.R. Part 655.

On January 9, 2020, the Office of Foreign Labor Certification, ETA, notified Employer Eichelberger Farms, LLC, of the denial of its application seeking temporary labor certification under the H-2A agricultural program. By letter dated January 17, 2020, Employer requested a *de novo* hearing of the Certifying Officer's decision.

The Administrative File has not yet been received in this Office, which triggers the scheduling of the hearing. *See* 20 C.F.R. § 655.171(b). However, the parties have filed various motions seeking dismissal of the matter, raising timeliness issues (Certifying Officer's Motion to Dismiss dated January 27, 2020), subject matter jurisdiction (Employer's Motion to Dismiss dated February 3, 2020), and more recently a question of mootness (Employer's Suggestion of

Mootness and Withdrawal of Request for De Novo Review dated February 18, 2020). Notably, Employer submits in its most recent motion that it has filed an alternative application, which has been accepted and is being processed by the Certifying Officer. Therefore, Employer submits the present matter is moot. In any case, Employer alternatively withdraws its request for *de novo* review of the present matter.

It would appear that the present matter is moot if Employer is pursuing an alternative application. More importantly, given that the Employer no longer seeks review of the application denied on January 9, 2020, **it is hereby ORDERED that this matter is DISMISSED.**

This 18th day of February, 2020, at Covington, Louisiana.

ANGELA F. DONALDSON
Administrative Law Judge