U.S. Department of Labor

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Issue Date: 29 April 2020

OALJ Case No.: 2020-TLC-00037

ETA Case No.: H-300-19221-152398

In the Matter of:

SUGARLAND AG, LLC,
Employer.

ORDER OF DISMISSAL

This matter arises under the H-2A temporary agricultural employment provisions of the Immigration and Nationality Act, 8 U.S.C. §§ 1101(a)(15)(H)(ii) and 1184(c)(1), and the implementing regulations set forth at 20 C.F.R. Part 655, Subpart B. The H-2A visa program permits employers to hire foreign workers to perform temporary agricultural work within the United States on a one-time occurrence, seasonal, peak load, or intermittent basis.

On August 9, 2019, the United States Department of Labor ("the Department"), Employment and Training Administration ("ETA") received an ETA Form 9142 *Application for Temporary Labor Certification* ("Application") from Sugarland AG, LLC ("Employer"), requesting H-2A labor certification for sixty-five (65) agricultural equipment operators for the period of September 26, 2019 through April 29, 2020. The Certifying Officer ("CO") issued a Notice of Deficiency on August 15, 2019, and Employer responded on August 27, 2019. The CO issued a denial letter on September 13, 2019, and, on September 20, 2019, Employer requested de novo review before the Office of Administrative Law Judges ("OALJ").[1]

On December 16, 2019, the United States District Court for the District of Columbia granted a preliminary injunction in *Everglades Harvesting & Hauling, Inc. v. Scalia et al.*[2] ("Everglades Harvesting"), requiring the Department to re-review certain qualifying H-2A applications.

[1] This request was docketed as OALJ Case No. 2019-TLC-00087.

[2] No. 1:19-cv-3291.

On December 18, 2019, the CO in the prior case filed an *Unopposed Motion for Remand*, and Administrative Law Judge Hoffman issued an order remanding OALJ Case No. 2019-TLC-00087 to ETA for additional processing of the temporary labor certification application.

However, on December 20, 2019, the CO issued a Notice of Deficiency and, on December 27, 2019, Employer again requested de novo review. ETA transmitted the administrative file to OALJ, where it was received on February 3, 2020, docketed as OALJ Case No. 2020-TLC-00037 and assigned to me. On February 11, 2020, I issued *Order Holding Case in Abeyance* until the District Court ruled on pending motions in *Everglades Harvesting.*[3]

On April 28, 2020, the parties filed *Joint Status Report and Motion to Dismiss This Appeal* ("Motion"). The parties submit that, as the District Court declined to amend the December 16, 2019 Order entered in *Everglades Harvesting*, dismissal of these proceedings is appropriate. Accordingly, the Motion is GRANTED; this matter is DISMISSED.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge

[3] Employer averred that the rulings would "presumably finally resolve the issue of whether the above referenced job order . . . must be accepted by the Department of Labor for H-2A certification." (AF at 4).