

U.S. Department of Labor

Board of Alien Labor Certification Appeals
800 K Street, NW
Washington, DC 20001-8002

(202) 693-7300
(202) 693-7365 (FAX)



Issue Date: 13 January 2021

BALCA Case Nos.: 2021-TLC-00044 / 2021-TLC-00045
ETA Case Nos.: H-300-20318-912645 / H-300-20318-911992

In the Matters of:

PALOMA HARVESTING,
Employer.

ORDER DISMISSING CASES

On December 22, 2020, the above-captioned Employer requested a *de novo* hearing on the Certifying Officer's decisions in the above captioned H-2A temporary labor certification matters. *See* 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1188; 20 C.F.R. § 655.171(b). On December 23, 2020, these cases were assigned to me, Administrative Law Judge Noran J. Camp, for hearing and decision. Pursuant to the applicable regulations, "[t]he ALJ will ensure that the hearing is scheduled to take place within 5 business days after the ALJ's receipt of the ... administrative file, *if the employer so requests*" 20 C.F.R. § 655.171(b)(1)(ii) (my emphasis). Employer did not request that a *de novo* hearing take place within five (5) business days. The Boston District Office received the administrative file on January 5, 2021.

On December 28, 2020, I held a telephone conference with counsel for the parties. They indicated that this matter should be decided on the paper record, instead of holding a *de novo* hearing. The parties intended to file briefs after the Boston District Office received the administrative file. However, on January 6, 2021, counsel for Employer advised via email that his client wished to withdraw its appeals. Counsel for the Certifying Officer ("CO") confirmed that the CO has no objection to Employer's request to withdraw its appeals.

The implementing regulations do not appear to address how I am to deal with a motion to withdraw the appeal. *See* 20 C.F.R. § 655.171. However, the implementing regulations do state that "the procedures in 29 CFR part 18 apply to such hearings," with exceptions not pertinent to the request to withdraw the appeal. *See* 20 C.F.R. § 655.171(b)(1). Those regulations, in turn, authorize me to "[t]erminate proceedings through dismissal or remand when not inconsistent with statute, regulation, or executive order." *See* 29 C.F.R. § 18.12(b)(7).

Therefore, in light of Employer's request to dismiss the appeal, the government's consent to such request, and good cause appearing therefor,

IT IS HEREBY ORDERED that these matters are **DISMISSED**. *See* 29 C.F.R. § 18.12(b)(7); *accord* Fed. R. Civ. P. 41(a)(1).

SO ORDERED.

NORAN J. CAMP
Administrative Law Judge

Boston, Massachusetts