



STATE OF GEORGIA
DEPARTMENT OF AGRICULTURE

Gary W. Black
COMMISSIONER

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BY EXEC SEC
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March 13, 2015

The Honorable Jeh Johnson
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Johnson:

I have recently been made aware that the U.S. Department of Homeland Security (DHS) and the U.S. Department of Labor (DOL) have halted the processing of applications for the H-2B temporary worker program as a result of the ruling in *Perez v. Perez*, No. 3:14-cv-682.

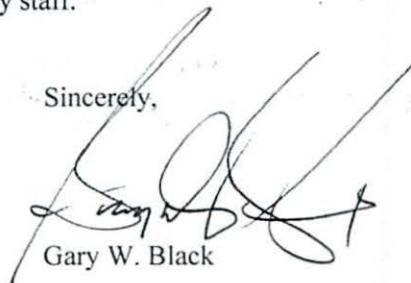
This program is vital to the operations of businesses throughout the U.S. A particular case in Georgia is that of Mr. [REDACTED], Mr. [REDACTED] business, [REDACTED], is located in the rural county of Rabun. Mr. [REDACTED] has grown his business over the past 41 years to service thousands of farms both foreign and domestic. His operations now require close to 100 workers, only 8 of which he is able to source locally.

The decision to stop accepting applications is a dramatic overcorrection to a ruling that merely states that DOL has no formal authority to prescribe regulations for the H2B program. DHS and DOL should consider the impact this decision has on businesses such as Mr. [REDACTED], whose operations have ceased as a result.

The trust of our citizens suffers when government makes decisions of this size and scope without regard for the detriment of those affected. I urge DHS and DOL to work expediently and issue an emergency rule to resume the H2B program. In turn, I will continue to work with our delegation to seek a legislative remedy.

I look forward to cooperating with your agency. If you should require anything of me, please do not hesitate to contact me or any member of my staff.

Sincerely,



Gary W. Black

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The Honorable Jeh Johnson
Secretary
U.S. Department of Homeland Security
Washington DC 20528





U.S. Citizenship
and Immigration
Services

March 31, 2015

The Honorable Gary W. Black
Commissioner
Georgia Department of Agriculture
19 Martin Luther King, Jr. Drive, SW
Atlanta, GA 30334

Dear Commissioner Black:

Thank you for your correspondence to Secretary Johnson regarding the continued operation of the H-2B temporary nonagricultural worker program. The Secretary asked that I respond to your letter.

As you are aware, on March 4, 2015, the U.S. District Court for the Northern District of Florida, in the case of *Perez v. Perez*, No. 3:14-cv-682, vacated U.S. Department of Labor (DOL) regulations from 2008 governing the H-2B program. The court vacated those regulations on the ground that DOL lacks authority under the Immigration and Nationality Act to engage in unilateral legislative rulemaking concerning the H-2B program. The court further vacated and enjoined DOL from enforcing the rule, and DOL was forced to immediately discontinue processing applications for temporary labor certifications in the program. The Department of Homeland Security (DHS) suspended H-2B adjudications while it reviewed and assessed the district court's decision.

DOL and DHS share your interest in the continued operation of the H-2B program and have taken prompt actions to address the problem. On March 16, 2015, DOL filed an unopposed motion to stay the district court's order until April 15, 2015. The court granted that motion on March 18, 2015. As a result, DOL immediately resumed issuing labor certifications and prevailing wage determinations under the 2008 H-2B rule. The court has since taken further action that has stayed its order while it reviews pleadings recently submitted concerning this litigation. DOL has published frequently asked questions on its website at www.foreignlaborcert.doleta.gov in order to assist employers and other stakeholders in understanding the scope and effects of the court's order.

In addition, in conjunction with the filing of DOL's motion on March 17, 2015, DHS resumed adjudications of H-2B petitions based on temporary labor certifications previously issued by DOL. Given the volume of cases received during the current suspension of H-2B adjudications, DHS has suspended premium processing of H-2B petitions until further notice. Once DHS has completed data entry of the pending petitions and reassessed its ability to deliver appropriate levels of service to premium and non-premium filings, DHS will determine when to accept new premium processing requests.

The Honorable Gary W. Black
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DOL and DHS are also moving expeditiously to fill the regulatory gap resulting from the district court's order. The Departments intend to promulgate a joint interim final rule by the end of April.

Thank you again for your letter. DOL and DHS will continue to keep the affected public informed of developments with respect to the H-2B program.

Sincerely,

A handwritten signature in black ink, reading "León Rodríguez". The signature is written in a cursive style with a large, stylized initial "L".

León Rodríguez
Director