

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

GERAWAN FARMING, INC.,	)	Case Nos.	2012-CE-041-VIS
	)		2012-CE-042-VIS
	)		2012-CE-047-VIS
Respondent,	)		2013-CE-007-VIS
	)		2013-CE-009-VIS
	)		2013-CE-010-VIS
	)		2013-CE-030-VIS
and	)		2013-CE-038-VIS
	)		2013-CE-041-VIS
	)		2013-CE-044-VIS
	)		2013-CE-045-VIS
)		
)		
UNITED FARM WORKERS OF	)	ORDER DENYING GERAWAN	
	)	FARMING INC.'S APPLICATION	
AMERICA,	)	FOR SPECIAL PERMISSION TO	
	)	APPEAL THE ALJ'S ORDER	
Charging Party.	)	DENYING GERAWAN'S	
	)	REQUEST TO DISQUALIFY ALJ	
	)	SOBLE	
)		
	)	Admin. Order No. 2016-06	
)		
	)	(March 17, 2016)	
)		

On March 7, 2016, Gerawan Farming, Inc. (“Gerawan”) filed with the Agricultural Labor Relations Board (the “ALRB” or “Board”) an application for special permission to appeal a February 29, 2016 order of Administrative Law Judge Mark R. Soble (“ALJ Soble”) denying Gerawan’s request to disqualify ALJ Soble. The ALRB’s General Counsel timely filed an opposition to the application. For the following reasons, the application is denied.

Disqualification of administrative law judges is governed by Board Regulation 20263. (Cal. Code Regs., tit. 8, § 20263.) That regulation states that a request for disqualification is to be directed to and decided by the administrative law judge. (Cal. Code Regs., tit. 8, § 20263 Subd. (c).) Subdivision (d) of the regulation sets forth the procedure to be followed in cases where the administrative law judge does not disqualify himself or herself:

If the administrative law judge does not disqualify himself or herself and withdraw from the proceeding, he or she shall so rule on the record, state the grounds for the ruling, and proceed with the hearing and the issuance of the decision. The party requesting the disqualification may file exceptions to the hearing on the ground of the personal bias or disqualification of the administrative law judge along with exceptions to the decision.

(Cal. Code Regs., tit. 8, § 20263, subd. (d).)

Thus, the applicable regulation does not permit interim review of administrative law judge rulings on disqualification. Rather, the hearing is to go forward and the disqualification ruling may be raised at the exceptions stage. (*Gallo Vineyards, Inc.* (2004) 30 ALRB No. 2 at p. 47-48; see also *California Coastal Farms, Inc. v. Doctoroff* (1981)

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117 Cal.App.3d 156, 162.) Accordingly, Gerawan's application for special permission to appeal ALJ Soble's ruling on disqualification must be, and hereby is, DENIED.¹

DATED: March 17, 2016

WILLIAM B. GOULD IV, Chairman

GENEVIEVE A. SHIROMA, Member

CATHRYN RIVERA-HERNANDEZ, Member

¹ The Board is aware that ALJ Soble has requested that the Board or the Board's Executive Secretary "clarify the scope" of the hearing in this matter. [Order Denying Respondent Gerawan's Request to Disqualify Administrative Law Judge Dated February 29, 2016 at p. 2.] ALJ Soble directed that the parties provide briefing on questions related to this issue. [Case Management Conference Order, Dated February 25, 2016 at pp. 5-6.] The Board's regulations assign administrative law judges the power to regulate the course of hearings and to dispose of procedural requests, motions, or similar matters. (Cal. Code Regs., tit. 8, § 20262.) Once ALJ Soble issues an order concerning this issue, parties may, as appropriate, seek Board review of such order pursuant to the Board's regulations.