

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

June 27, 2024

ZAJI OBATALA ZAJRADHARA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2021B00043
)	
LI YONG HONG CORPORATION,)	
Respondent.)	
_____)	

NOTICE OF POTENTIAL DISMISSAL - ABANDONMENT

On June 30, 2021, Complainant, Zaji Obatala Zajradhara, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO). Complainant alleges that Respondent, Li Yong Hong Corporation, discriminated against him in violation of 8 U.S.C. § 1324b, on account of his national origin and citizenship status. Compl. 6.¹ Respondent did not file an Answer.

On September 24, 2021, the Administrative Law Judge (ALJ), upon review of the Complaint, determined that she had the obligation to satisfy herself as to whether she has jurisdiction over the Complaint and ordered Complainant to show cause within forty-five days as to whether the Court has subject matter jurisdiction over his claims.² Order to Show Cause 1, 3.

¹ Pinpoint citations to the complaint are to the internal pagination of the PDF file rather than to the page numbers printed at the bottom of the pages.

² As a forum of limited jurisdiction, this Court may only hear cases of discrimination based on citizenship status when the employer employs more than three individuals, and for national origin discrimination, claims against employers employing between four and fourteen individuals. *See* Order Show Cause 2 (citing *United States v. Facebook, Inc.*, 14 OCAHO no. 1386b, 6–7 (2021), and then citing 8 U.S.C. §§ 1324b(a)(1)(A), 1324b(a)(2)(A), 1324b(a)(2)(B)). The Court noted that without sufficiently pled facts, the Court cannot determine whether it has jurisdiction to adjudicate Complainant’s § 1324b claims. *See Zajradhara v. Li Yong Hong Corp.*, 17 OCAHO no. 1472, 1-2 & n.1 (2023).

On January 31, 2023, the Court issued an “Order Issuing Stay – Abandoned Complaint.” *Zajradhara v. Li Yong Hong Corp.*, 17 OCAHO no. 1472 (2023).³ In that order, the ALJ found that Complainant had not provided a response to the Order to Show Cause and determined that Complainant had abandoned his complaint. *Id.* at 2. Because the ALJ was unable to execute a final case disposition, however, she issued a stay of the proceedings. *Id.* at 2 (citing, among others, *A.S. v. Amazon Web Servs., Inc.*, 14 OCAHO no. 1381h, 2 n.4 (2021)). She instructed that during the stay of proceedings, the Court would not consider or adjudicate submissions filed by the parties. *Id.* at 2-3.⁴

On October 12, 2023, the Department of Justice published an interim final rule providing for review by the Attorney General of OCAHO Administrative Law Judge (ALJ) final orders in cases arising under 8 U.S.C. § 1324b. *See* Office of the Chief Administrative Hearing Officer, Review Procedures, 88 Fed. Reg. 70586 (Oct. 12, 2023) (codified at 28 C.F.R. pt. 68). The regulation resolved the issue identified in *A.S. v. Amazon Web Servs., Inc.* that led to the stay in this matter. As a result of this change to the regulation, this Court may proceed to a final case disposition. Accordingly, the stay is LIFTED.

In her Order Issuing Stay, the ALJ found that “abandonment is an appropriate finding when a party inexplicably fails to respond to an order.” *Zajradhara*, 17 OCAHO no. 1472, at 2 (citing 28 C.F.R. § 68.37(b)(1); and then citing *Ravines de Schur v. Easter Seals-Goodwill N. Rocky Mountain, Inc.*, 15 OCAHO no. 1388g, 3 (2022); and then citing *United States v. Cordin Co.*, 10 OCAHO no. 1162, 3–4 (2012) (CAHO order) (holding that the ALJ “correctly found” a request for hearing abandoned for failure to respond to an order to show cause)).

A complaint “may be dismissed upon its abandonment by the party or parties who filed it.” 28 C.F.R. § 68.37(b). A party “shall be deemed to have abandoned a complaint” if the party “fails to

³ Citations to OCAHO precedents in bound volumes one through eight include the volume and case number of the particular decision followed by the specific page in the bound volume where the decision begins; the pinpoint citations which follow are to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents after volume eight, where the decision has not yet been reprinted in a bound volume, are to pages within the original issuances; the beginning page number of an unbound case will always be 1 and is accordingly omitted from the citation. Published decisions may be accessed through the Westlaw database “FIM OCAHO,” the LexisNexis database “OCAHO,” and on the United States Department of Justice’s website: <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

⁴ The ALJ issued one more decision in this case on February 16, 2023, disclosing a prohibited ex parte communication by Complainant. *Zajradhara v. Li Yong Hong Corporation*, 17 OCAHO no. 1472a (2023). This Court will not consider the substance of that communication as it was both prohibited and not presented in written form. *Id.* at 2 n.3.

respond to orders issued by the Administrative Law Judge.” *Id.* Appropriately viewed as a severe sanction, dismissal with prejudice has been upheld where the party is pro se “so long as the court has warned the party that noncompliance can result in dismissal.” *Rodriguez v. Tyson Foods, Inc.*, 9 OCAHO no. 1109, 3 (2004) (dismissing complaint for abandonment due to complainant’s failure to respond to the court’s orders and comply with discovery orders).

Although the 2023 Order Issuing Stay notified Complainant that the Court had deemed his Complaint abandoned, and that the case would be dismissed when the stay was lifted, Complainant did not have an opportunity to respond to this order, given that the Court indicated that it would not consider filings from the parties during the stay of proceedings.

Accordingly, the Complainant is hereby put on notice that the Court may dismiss his Complaint due to its abandonment. If he intends to pursue this case, Complaint should show cause as to: 1) whether the Court has subject matter jurisdiction over his claims; specifically, how many employees Respondent had at the time of the alleged discrimination; and 2) why he did not timely respond to the Order to Show Cause. Complainant must submit any responses by July 27, 2024.

SO ORDERED.

Dated and entered on June 27, 2024.

Honorable Jean C. King
Chief Administrative Law Judge