

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

April 16, 2024

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| ZAJI OBATALA ZAJRADHARA, |) | |
| Complainant, |) | |
| |) | |
| v. |) | 8 U.S.C. § 1324b Proceeding |
| |) | OCAHO Case No. 2024B00019 |
| |) | |
| TENDER HOSPICE CARE, INC., |) | |
| Respondent. |) | |
| _____ |) | |

Appearances: Zaji O. Zajradhara, pro se Complainant
Michael W. Dotts, Esq., for Respondent

ORDER GRANTING JOINT MOTION TO DISMISS

I. BACKGROUND

This case arises under the employment discrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On November 15, 2023, Complainant, Zaji O. Zajradhara, filed a complaint with the Office of the Chief Administrative Officer (OCAHO), alleging that Respondent, Tender Hospice Care, Inc., discriminated against him on the basis of national origin and citizenship status in violation of 8 U.S.C. § 1324b(a)(1) and retaliated against him in violation of 8 U.S.C. § 1324b(a)(5).

On February 6, 2024, Respondent filed its Answer including affirmative defenses via mail.

On March 27, 2024, Complainant submitted his “Layman’s Request for Dismissal,” requesting that the Court dismiss the case pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). Complainant Motion to Dismiss.

On April 2, 2024, the parties jointly submitted a Stipulated Dismissal and Joint Request to Dismiss Case. The filing explains “the parties conferred, and Complainant advise that he had decided not to proceed with his claim because of family matters.” J. Request Dismiss 1. Further, “[n]o consideration was given to Complainant to obtain his agreement to dismiss this case.” *Id.* The parties clarified they seek dismissal with prejudice. *Id.*

II. DISCUSSION

OCAHO’s Rules of Practice and Procedure “do not contain a specific provision regarding voluntary dismissal outside the settlement context.” *United States v. Quisquina-Yaxon*, 17 OCAHO no. 1474a, 3 (2023).¹ However, “[t]he Federal Rules of Civil Procedure may be used as a general guideline in any situation not controlled by [OCAHO’s] rules, by the Administrative Procedures Act, or by any other applicable statute, executive order, or regulation.” 28 C.F.R. § 68.1. Federal Rule of Civil Procedure 41(a)(2) addresses voluntary dismissal post-answer.

Rule 41(a)(2) states “an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.” It is this Court’s practice to “grant a motion for voluntary dismissal under Rule 41(a)(2) unless the opposing party will suffer some plain legal prejudice as a result.” *United States v. La Parisienne Bakery, LLC*, 15 OCAHO no. 1390a, 3 (2021). “Unless the order states otherwise, a dismissal . . . is without prejudice.” Federal Rule of Civil Procedure 41(a)(2). The Court has “broad discretionary power over whether to grant a Rule 41(a)(2) dismissal with or without prejudice.” *Quisquina-Yaxon*, 17 OCAHO no. 1474a at 3.

Here, the parties have jointly requested dismissal. Respondent did not identify any legal prejudice following dismissal, and separately, the Court does not find any legal prejudice. The parties jointly request the case be dismissed with prejudice. The Court sees no reason to withhold the requested resolution from the parties. The Court GRANTS the parties’ Joint Request to Dismiss Case, and the case is DIMISSED with prejudice.

This is a Final Order. 28 C.F.R. § 68.2 (“Final order is an order . . . that disposes of a particular proceeding . . . thereby concluding the jurisdiction of the Administrative Law Judge[.]”).

SO ORDERED.

Dated and entered on April 16, 2024.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

¹ Citations to OCAHO precedents reprinted in bound Volumes 1 through 8 reflect the volume number and the case number of the particular decision, followed by the specific page in that volume where the decision begins; the pinpoint citations which follow are thus to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents subsequent to Volume 8, 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 in the Westlaw database “FIMOCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

Appeal Information

This order shall become the final agency order unless modified, vacated, or remanded by the Attorney General. Provisions governing the Attorney General's review of this order are set forth at 28 C.F.R. pt. 68. Within sixty days of the entry of an Administrative Law Judge's final order, the Attorney General may direct the CAHO to refer any final order to the Attorney General for review, pursuant to 28 C.F.R. § 68.55.

Any person aggrieved by the final order has sixty days from the date of entry of the final order to petition for review in the United States Court of Appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business. See 8 U.S.C. § 1324b(i)(1); 28 C.F.R. § 68.57. A petition for review must conform to the requirements of Rule 15 of the Federal Rules of Appellate Procedure.