

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

In Re Charge of Luis A. Aguilera

United States of America, Complainant v. John Sargetis, Ted Sargetis and Jim Sargetis, Individually and d/b/a Castle Valley Sales, Inc., and C.V.S. Auto Sales, Respondent; 8 U.S.C. 1324b Proceeding; Case No. 90200143.

ORDER DENYING RESPONDENT'S SUPPLEMENTAL MOTION FOR SUMMARY DECISION

On August 13, 1990, Respondents filed a second motion for summary decision. They cited the Decision of the Administrative Law Judge of the Industrial Commission of Utah's Department of Employment Security, dated August 3, 1990, in which the court upheld an order disapproving unemployment benefits for Complainant, Luis A. Aguilera. Respondents contend that this Decision is relevant to the present OCAHO case, and that based upon the Doctrine of Collateral Estoppel, an order granting summary decision should issue, since the same parties and factual issue are involved here as were involved in the State of Utah proceeding.

On August 23, 1990, Complainant responded to the Motion for Summary Decision. Complainant argues that the decision of the Utah Department of Employment Security is inapplicable to the present case, despite the similarity in facts. It further argues that summary decision should not issue where genuine issues of material fact exist, as they do in this case.

I am persuaded by Complainant's argument that the decision of the Administrative Law Judge of the State of Utah is not binding on this Court because separate issues and facts were involved in that claim. As Complainant argues, the Utah proceeding dealt with unemployment issues while the present case focuses on issues of national origin discrimination. I agree that these two issues are quite separate and distinct, despite the similarity in parties and incidents involved. The law applied in the State of Utah proceeding

was also distinct from the IRCA regulations applicable to the present case.

It appears, as Complainant contends, that issues of material fact are in dispute. I agree that summary decision is not appropriate in such an instance. Additionally, Respondents have not provided the Court with any law to bolster their argument that the Findings of Fact, as issued in the Decision of Utah's Administrative Law Judge, should be applied by me in determining the issue of summary decision.

ACCORDINGLY,

The Respondents' Supplemental Motion for Summary Decision is hereby DENIED.

**IT IS SO ORDERED:** This 10th day of September, 1990, at San Diego, California.

E. MILTON FROSBURG  
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Executive Office for Immigration Review  
Office of the Administrative Law Judge  
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