

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 24-_____

THE SECRETARY, UNITED STATES DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT, ON BEHALF OF NICOLE WILLIAMS,

Petitioner

v.

QUANG DANGTRAN, HA NGUYEN, AND HQD ENTERPRISE, LLC,

Respondents

THE SECRETARY'S APPLICATION FOR ENFORCEMENT
OF THE FINAL AGENCY ORDER

Petitioner, the Secretary of the United States Department of Housing and Urban Development (HUD), pursuant to Section 812(j) of the Fair Housing Act, 42 U.S.C. 3612(j), and Rule 15(b)(1) of the Federal Rules of Appellate Procedure, files this Application for Enforcement of the Final Agency Order entered on December 9, 2022. Respondents are Quang Dangtran, Ha Ngyuen, and Dangtran's company, HQD Enterprise, LLC. The final agency order, which is attached to this application, requires respondents, among other things, to pay damages and civil penalties. *See* Initial Decision and Order (Dec. 9, 2022) (Initial Decision), Att. A.

This Court has jurisdiction over the application under 42 U.S.C. 3612(j)(1), which provides that the Secretary may petition for enforcement of an order of an administrative law judge in “any United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business.” The discriminatory housing practice in this case took place in this circuit in Plano, Texas. Initial Decision 1. Rule 15(b)(1) of the Federal Rules of Appellate Procedure also provides that “[a]n application to enforce an agency order must be filed with the clerk of a court of appeals authorized to enforce the order.”

PROCEEDINGS

In June 2019, HUD filed a charge of discrimination on behalf of complainant Nicole Williams against respondents, alleging a violation of the Fair Housing Act (FHA), 42 U.S.C. 3601 *et seq.* Initial Decision 2. HUD later amended the charge to allege that respondents unlawfully discriminated against Williams, a prospective tenant who is Black, by (1) posting a discriminatory housing advertisement, in violation of Section 804(c) of the FHA, 42 U.S.C. 3604(c); (2) making a discriminatory statement to Williams concerning the rental of a dwelling, also in violation of Section 804(c); (3) refusing to negotiate a room rental with Williams because of her race, in violation of Section 804(a) of the FHA, 42 U.S.C. 3604(a); (4) misrepresenting to Williams the availability of a

dwelling because of her race, in violation of Section 804(d) of the FHA, 42 U.S.C. 3604(d); and (5) retaliating against Williams for filing a complaint under the FHA, in violation of Section 818 of the FHA, 42 U.S.C. 3617. Initial Decision 1-2.

On December 9, 2022, an administrative law judge (ALJ) issued an initial decision and order finding respondents liable for all of the alleged FHA violations. Initial Decision 42. The ALJ ordered respondents to jointly and severally pay Williams \$79,782.75 in damages. *Ibid.* In addition, the ALJ assessed civil penalties against respondents Dangtran, Nguyen, and HQD Enterprise in the amounts of \$19,787; \$9,898; and \$19,787 respectively. *Ibid.* The ALJ also ordered additional relief, such as requiring respondents to attend fair housing and cultural sensitivity training. *Id.* at 42-43.

On January 2, 2023, respondents attempted to administratively appeal the ALJ's initial decision. *See* Order on Resp'ts' Pet. for Review of the ALJ's Initial Decision and Order 1 (Jan. 6, 2023) (Order on Resp'ts' Pet. for Review), Att. B. Because HUD regulations require that a petition for review of an ALJ's initial decision be received by the Secretary within 15 days of the issuance of the decision, *see* 24 C.F.R. 180.675(d), and because that deadline for respondents had expired on December 24, 2022, the Secretary's designee denied respondents' appeal as untimely. Order on Resp'ts' Pet. for Review 2.

The ALJ's initial decision became a final agency order on January 8, 2023. *See* 24 C.F.R. 180.680(b)(2) (stating that, in the absence of a final decision by the Secretary, an initial decision becomes final 30 days after it is issued).¹

Pursuant to the ALJ's decision, respondents were required to pay the ordered damages and civil penalties on February 7, 2023. *See* Initial Decision 42-43. On February 15, 2023, having not received respondents' payments, HUD sent respondents letters informing them that they had not complied with the February 7 deadline and requesting payment by March 2, 2023. Letter from Rosanne Avilés, U.S. Dep't of Hous. & Urban Dev., to Quang Dangtran (Feb. 15, 2023), Att. C; Letter from Rosanne Avilés, U.S. Dep't of Hous. & Urban Dev., to Ha Nguyen (Feb. 15, 2023), Att. D; Letter from Rosanne Avilés, U.S. Dep't of Hous. & Urban Dev., to HQD Enterprise, LLC c/o Stephanie Nguyen (Feb. 15, 2023), Att. E. The letters further informed respondents that if payment was not received by March 2, the case would be referred to the Department of Justice (DOJ) for enforcement. As

¹ Respondents Dangtran and Nguyen attempted to obtain judicial review of the final order from the U.S. District Court for the Eastern District of Texas, but the court dismissed their complaint for lack of subject-matter jurisdiction. *See Dangtran v. Secretary, U.S. Dep't of Hous. & Urban Dev.*, No. 4:23-cv-20, 2023 WL 6065081, at *2 (E.D. Tex. Aug. 29, 2023), report and recommendation adopted, No. 4:23-cv-20, 2023 WL 6162744 (E.D. Tex. Sept. 21, 2023) ("This court . . . does not have subject matter jurisdiction over Plaintiffs' appeal of the ALJ's decision. Judicial review of the ALJ's decision is conferred upon the Fifth Circuit."). Respondents did not appeal the court's decision.

of the date of this application, respondents have neither responded to HUD nor submitted payment.²

FACTS UPON WHICH VENUE IS BASED

Respondents are the owners and landlords of a two-story, five-bedroom home in Plano, Texas. Initial Decision 8. Nguyen and HQD Enterprise bought the property in 2016. *Id.* at 9. Dangtran is the director, manager, and owner of HQD Enterprise, and Nguyen is the company's registered agent. *Ibid.* Nguyen and Dangtran reside in the property's master bedroom on the ground floor and rent out the bedrooms on the upper level. *Id.* at 8. During the time relevant to this case, Dangtran "effectively acted as rental agent for the subject property on behalf of all Respondents, as he was the individual with primary responsibility for finding and selecting tenants and for managing the rental process." *Id.* at 9.

On or around October 3, 2016, complainant Williams saw an advertisement that Dangtran had posted on Craigslist advertising one of the bedrooms in respondents' home. Initial Decision 9. Two days later, Williams arranged with

² DOJ delayed filing an application for enforcement while Dangtran and Nguyen's complaint seeking judicial review of the ALJ's final order was pending in the Eastern District of Texas. *See Dangtran*, 2023 WL 6065081. In addition, DOJ initially delayed filing an application after Dangtran and Nguyen filed another lawsuit against Williams and HUD. *See Dangtran v. Williams*, No. 4:23-cv-938 (E.D. Tex.). The United States filed a motion to dismiss in that case, which Dangtran and Nguyen have not timely opposed.

Dangtran to come view the property. *Id.* at 10. Upon seeing Williams, Dangtran said, ““Oooh, you’re Nicole,’ and appeared surprised.” *Ibid.* Dangtran appeared reluctant to show Williams the property and began peppering her with questions about how regularly she cooks, whether she is quiet and professional, and about her education. *Id.* at 10-11. Dangtran also asked Williams to provide him with a picture of her diploma. *Id.* at 11. Ultimately, Dangtran refused to show Williams the property and stated that Nguyen was not comfortable living in the same house as a Black woman and that the other tenants in the house were all “Asian professionals.” *Id.* at 11. Dangtran then received a phone call and walked away for 10 to 15 minutes. *Ibid.* When Dangtran returned, he told Williams that he had rented the room to someone else. *Ibid.*

Williams felt “traumatized” by her encounter with respondents. Initial Decision 12. The experience led her to submit an online application for a roommate rather than continue attempting to find a room for herself on Craigslist. *Ibid.* She and a roommate ultimately rented a property in a lower-income and higher-crime area than where respondents’ home is located, with less space, higher rent, and a longer commute to Williams’s job. *Ibid.*

Following her interaction with Dangtran, Williams discovered that respondents had posted a new ad on Craigslist. Initial Decision 12. Unlike the original ad, the new ad asked applicants to provide a “brief description about

yourself, *race* and age; and a recent picture of you.” *Id.* at 12-13 (emphasis added).

Williams filed a housing discrimination complaint with HUD in February 2017, which led to HUD filing a charge of discrimination in June 2019. Initial Decision 13. In October of that year, the ALJ granted partial summary judgment in HUD’s favor on the discriminatory advertisement claim. *Ibid.* Less than one month later, respondents filed a complaint against Williams in state court alleging that she had committed abuse of process and slander by filing her HUD complaint. *Ibid.* The state court dismissed respondents’ lawsuit pursuant to a state law that allows for speedy dismissal of lawsuits that may chill the exercise of protected rights, awarding attorney’s fees and sanctions to Williams. *Id.* at 13-14 (citing Tex. Civ. Prac. & Rem. Code Ann. §§ 27.001 *et seq.* (West 2023)).

RELIEF REQUESTED

This Court should enforce the December 9, 2022, final agency order.

Respectfully submitted,

KRISTEN CLARKE
Assistant Attorney General

s/ Jonathan L. Backer
TOVAH R. CALDERÓN
JONATHAN L. BACKER
Attorneys
U.S. Department of Justice
Civil Rights Division
Appellate Section
Ben Franklin Station
P.O. Box 14403
Washington, D.C. 20044-4403
(202) 532-3528

CERTIFICATE OF SERVICE

On February 27, 2024, I filed this brief with the Clerk of the Court by using the CM/ECF system. Pursuant to Federal Rules of Appellate Procedure 3(d) and 15(c), below is a list of individuals upon whom the Circuit Clerk may serve the application:

Quang Dangtran
7604 Stoney Point Drive
Plano, TX 75025

Ha Nguyen
7604 Stoney Point Drive
Plano, TX 75025

HQD Enterprise, LLC
c/o Stephanie Nguyen, Registered Agent
7604 Stoney Point Drive
Plano, TX 75025

s/ Jonathan L. Backer
JONATHAN L. BACKER
Attorney

CERTIFICATE OF COMPLIANCE

This application complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5) and (6) because it was prepared in Times New Roman 14-point font using Microsoft Word for Microsoft 365.

s/ Jonathan L. Backer
JONATHAN L. BACKER
Attorney

Date: February 27, 2024