

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

January 22, 2024

A.S.,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2020B00073
)	
AMAZON WEB SERVICES, INC.,)	
Respondent.)	
_____)	

Appearances: A.S., pro se, for Complainant
Stephanie L. Sweitzer, Esq. and Clayton M. Davis, Esq., for Respondent

ORDER LIFTING STAY OF PROCEEDINGS & DISMISSING CASE WITH PREJUDICE

On January 7, 2022, Complainant filed Complainant’s Motion to Withdraw the Case with Prejudice. Complainant requested the undersigned “grant withdraw[al] of this case with prejudice and grant Complainant such further relief, in law or in equity, to which it is justly entitled,” because he “is too . . . busy in his life and it’s very difficult for Complainant to have enough bandwidth for [his other] cases against the Respondent where Complainant is pro-se.” Mot. Withdraw Case With Prejudice 25, 22. Respondent’s response to Complainant’s motion was due January 17, 2022. See 28 C.F.R. § 68.11(b). To date, Respondent has not filed a response; thus, Complainant’s motion is unopposed.

On January 20, 2022, Respondent filed a Motion for Extension of the Dispositive Motion Deadline in which it noted it does not oppose Complainant’s Motion. Mot. Ext. 1. Respondent hypothesized if Complainant’s Motion were granted, “this matter will be dismissed and it will obviate the need for Respondent to file a dispositive motion.” *Id.*

On February 8, 2022, the Court issued an Order Issuing Stay of Proceedings, in which it considered the Complainant’s motion to be “functionally, a motion requesting voluntary dismissal of his complaint.” *A.S. v. Amazon Web Servs.*, 14 OCAHO no. 1381o, 2 (2022).¹ The

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

Court explained that granting such a motion would result in a final order in the case because of the “litigation’s procedural posture.” *Id.* at 3.²

“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 28 U.S.C. § 1324b.” *Zajradhara v. HDH Co., Ltd.*, 16 OCAHO no. 1417d, 2 (2023) (citing 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 that led to the stay. *See id.*; *Heath v. SpringShine Consulting*, 16 OCAHO no. 1421d, 2 (2023); *Zajradhara v. E-Supply Enters.*, 16 OCAHO no. 1438h, 2 (2023). Accordingly, the Court now lifts the stay of proceedings.

Turning to the Complainant’s Motion to Withdraw the Case with Prejudice, the Court first notes the Motion is unopposed. Because OCAHO regulations do not squarely contemplate voluntary dismissal upon motion of a Complainant, thus the Court will look to the Federal Rules of Civil Procedure (FRCP). *See* 28 C.F.R. § 68.1 (“The Federal Rules of Civil Procedure may be used as a general guideline in any situation not provided for or control by these rules, by the Administrative Procedure Act, or by any other applicable statute, executive order, or regulation.”); *see also Hussain v. Amazon Web Servs. Inc.*, 17 OCAHO no. 1453, 1 (2022) (compiling cases utilizing the Federal Rules of Civil Procedure to address voluntary dismissal). Here, the Court turns to FRCP 41(a) to provide a resolution for the parties. FRCP 41(a)(1) notes a Complainant may in some circumstances “dismiss an action without a court order.”

Here, Complainant seeks a court order by way of his motion, and so the Court will look to FRCP 41(a)(2), which notes that a complaint may be “dismissed at [complainant’s] request . . . on terms that the Court considers proper.” “It has been consistently recognized that the Court should 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.

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 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 “FIM-OCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

² The Court’s rationale for executing a stay of proceedings was grounded in both the court’s inherent power to stay its proceedings when it serves judicial economy and efficiency, and guidance from the CAHO. *A.S. v. Amazon Web Servs.*, 14 OCAHO no. 1381o at 2 (citing *Hood ex. Rel. Miss. v. Microsoft Corp.*, 428 F. Supp. 2d 537, 541 (S.D. Miss. 2006), 2 n.4; *see A.S. v. Amazon Web Servs. Inc.*, 14 OCAHO no. 1381h, 2 n.4 (2021) (CAHO Order).

1390a, 3 (2021); *see also Zajradhara v. CL Corp.*, 16 OCAHO no. 1429a, 2 (2022). Noting here, that Respondent has no motions pending, and, more critically, does not oppose the dismissal of the Complaint, the Court finds voluntary dismissal under FRCP 41(a)(2) proper.

“FRCP 41(a)(2) posits that absent contrary language in the dismissal order, voluntary dismissal by the plaintiff shall be without prejudice.” *Zajradhara v. CL Corp.*, 16 OCAHO no. 1429a, 2 (2022). Here, the Complainant seeks dismissal with prejudice, and so he shall be provided with such.

This case is now DISMISSED WITH PREJUDICE. This is a Final Order.

SO ORDERED.

Dated and entered on January 22, 2024.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

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.

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January 30, 2024

A.S.,)	
Complainant,)	
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)	OCAHO Case No. 2020B00073
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AMAZON WEB SERVICES, INC.,)	
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ERRATA

The Order Order Lifting Stay of Proceedings & Dismissing Case With Prejudice, issued on January 23, 2024, is hereby amended to correct the following:

1. Page 2 is corrected to read: “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.” *Zajradhara v. HDH Co., Ltd.*, 16 OCAHO no. 1417d, 2 (2023) (citing Office of the Chief Administrative Hearing Officer, Review Procedures, 88 Fed. Reg. 70586 (Oct. 12, 2023) (codified at 28 C.F.R. pt. 68)).

SO ORDERED.

Dated and entered on January 30, 2024.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge