

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

August 1, 2024

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

ORDER OF DISMISSAL

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. Respondent did not file an answer to the Complaint.

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. Order to Show Cause 1, 3.

After Complainant did not file a response to the Court's Order to Show Cause, on January 31, 2023, the Court issued an "Order Issuing Stay – Abandoned Complaint." *Zajradhara v. Li Yong Hong Corp.*, 17 OCAHO no. 1472 (2023).¹ In that order, the ALJ found that Complainant had not

¹ 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

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.

On June 27, 2024, the Court issued a Notice of Potential Dismissal – Abandonment. *Zajradhara v. Li Yong Hong Corp.*, 17 OCAHO no. 1472b (2024). The Court explained that the Department of Justice had published an interim final rule providing for review by the Attorney General of ALJ final orders in cases arising under 8 U.S.C. § 1324b, thereby resolving the issue identified in *A.S. v. Amazon Web Servs., Inc.* that led to the stay in this matter. *Id.* at 2 (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)). Accordingly, the Court lifted the stay of proceedings.

Given that Complainant did not have an opportunity to respond to the Court’s January 31, 2023, order finding the complaint abandoned, the Court again put Complainant on notice that the Court may dismiss his Complaint due to its abandonment. *Id.* at 3. If he intends to pursue this case, the Court directed Complainant by July 27, 2024, to 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. *Id.* Complainant did not respond to the Court’s order.

As the Court previously explained, “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)²; 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 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).

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>.

² OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023).

Here, Complainant failed to respond to the Court's September 24, 2021, Order to Show Cause, or to the Court's June 27, 2024, Notice of Potential Dismissal – Abandonment. The last communication from Complainant to the Court regarding this case was a prohibited ex parte voicemail on February 8, 2023. *See Zajradhara v. Li Yong Hong Corp.*, 17 OCAHO no. 1472a (2023). Given Complainant's failure to respond to two Court orders or to otherwise participate in these proceedings, the Court now finds that Complainant has abandoned his Complaint. 28 C.F.R. § 37(b). Accordingly, the Complaint is DISMISSED.

This is a Final Order.

SO ORDERED.

Dated and entered on August 1, 2024.

Honorable Jean C. King
Chief 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.