

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

September 18, 2024

EHBERT NAHUM TALICE,)	
Complainant,)	
)	
)	8 U.S.C. § 1324b Proceeding
v.)	OCAHO Case No. 2024B00091
)	
)	
CENTRAL AUTISM,)	
Respondent.)	
_____)	

Appearances: Ehbert Nahum Talice, pro se Complainant
Michael P. Nowlan, Esq., and Thomas K. Ragland, Esq., for Respondent

ORDER SUMMARIZING PREHEARING CONFERENCE & DISMISSING NATIONAL
ORIGIN CLAIM

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b.

On March 19, 2024, Complainant, Ehbert Nahum Talice, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Centria Autism. Complainant alleges that Respondent discriminated against him on the basis of national origin and citizenship status and engaged in unfair documentary practices in violation of 8 U.S.C. §§ 1324b(a)(1) and (a)(6). On May 15, 2024, Respondent filed an Answer to the Complaint.

On September 17, 2024, the Court held an initial prehearing conference pursuant to 28 C.F.R. § 68.13.¹ Ehbert Nahum Talice appeared pro se as the Complainant. Michael P. Nowlan and Thomas K. Ragland appeared on behalf of Respondent.

¹ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024), *available at* <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

The Court first discussed its jurisdiction over Complainant's claim of discrimination on basis of his national origin.² The Court confirmed it received and reviewed the parties' written submissions on this point (which they filed in response to the Court's June 17, 2024 Order to Show Cause). Because the Respondent business employs well in excess of the statutory number of employees for a national origin claim, the Court explained to the pro se Complainant that it could not hear his national origin allegation, and that allegation would be dismissed. *See* 8 U.S.C. § 1324b(a)(2)(B) (providing that entities covered under Section 703 of the Civil Rights Act of 1964 are excluded from § 1324b's jurisdiction). He acknowledged the rationale for the dismissal (previously outlined in the Order to Show Cause, dated June 17, 2024). Complainant's national origin claim is DISMISSED.

The Court informed the parties it had reviewed the Complaint and Answer and noted that the contents of the Answer indicated Complainant may have already received "back pay" from Respondent business. A colloquy with Complainant caused the Court to inform him that the types of damages available in the forum are limited and are based on the text of the statute, specifically, the statute does not authorize punitive damages or compensatory damages.

The Complainant had questions pertaining to potential violations of other laws or statutes, and the presiding ALJ informed Complainant that an OCAHO ALJ would not opine on whether a Respondent business did or did not violate other laws or statutes as an OCAHO ALJ's authority is limited to that which is outlined in 8 U.S.C. § 1324b. The OCAHO ALJ encouraged Complainant to consult with IER if he had additional questions related to collateral actions based on his allegations.

The Court informed the parties of the OCAHO's Settlement Officer Program. This program is a no-cost, voluntary alternative dispute resolution program. Settlement discussions are subject to the confidentiality provisions of 5 U.S.C. § 574. If the parties reach a settlement, 28 C.F.R. § 68.14 applies. Both parties must submit written consent to refer this case to the Program.³ The parties

² On June 17, 2024, the Court issued an Order to Show Cause and Rescheduling Prehearing Conference in which it noted that the Complaint alleges Respondent employs more than 15 individuals. OTSC 1. The Court then ordered Complainant to submit a filing showing "why this Court should not dismiss his national origin discrimination claim for lack of subject matter jurisdiction." *Id.* at 2.

On July 5, 2024, Complainant provided a written response; and on August 7, 2024, Respondent provided a written response. Complainant's response did not address the number of employees; however, Respondent's submission informs the Court that Respondent has over 3500 employees.

In addition to the written matters submitted by the parties, the Court asked the pro se Complainant if he was aware of the number of employees at Respondent business, and while he did not have an exact number, he provided an estimate of over 100.

³ Further details are available at: <https://www.justice.gov/eoir/eoir-policy-manual/iv/4/7>; *see also* EOIR Policy Memorandum 20-16, describing the policies and procedures for use of settlement officers in OCAHO cases (<https://www.justice.gov/eoir/page/file/1300746/download>).

can ask for a referral to the Program up to 30 days prior to a hearing. Deadlines for discovery may be stayed during the Program referral period, although the parties may engage in discovery while in mediation. The parties were encouraged to review the regulations governing discovery and the provisions of the OCAHO Practice Manual governing the Program. *See* 28 C.F.R. §§ 68.18–68.22; OCAHO Practice Manual Ch. 4.7.

The Court then set the following case schedule:

Close of Discovery:	November 16, 2024
Dispositive Motion Deadline:	January 3, 2025
Response to Dispositive Motion:	30 days after receipt of dispositive motion
Tentative Hearing Date:	March 2025
Hearing Location:	Portland, OR.

For the benefit of the pro se Complainant, the Court then discussed briefly the format and function of dispositive motions within OCAHO proceedings. As part of that discussion, the Court encouraged both parties to review OCAHO regulations, applicable Federal Rules of Civil Procedure,⁴ OCAHO precedential cases,⁵ and applicable cases from the appropriate circuit.⁶

The parties may request revisions to the case schedule by way of written motions articulating good cause for the revision to the schedule. Further, parties may also request another prehearing conference at any time by way of a written motion.

SO ORDERED.

Dated and entered on September 18, 2024.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

⁴ *See* 28 C.F.R. § 68.1.

⁵ OCAHO’s published decisions are available on the website sorted both by topic and chronologically, *available at* <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

⁶ “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.” 28 C.F.R. § 68.57.