

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

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 Lexis Nexis 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>.

In reopening the case, the Court ordered Complainant to file a submission responding to the September 2021 Order to Show Cause, specifically regarding “the number of employees Respondent had at the time of the alleged discrimination.”² The Court provided Complainant sixty days from the date of the Order to submit his response, which made it due on November 11, 2024. *See id.* at 3. The Court also warned Complainant that if he “[did] not provide a response within that time, the case may be dismissed as abandoned.” *Id.* (citing 28 C.F.R. § 68.37(b)(1)).³

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); 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).

The Court warned Complainant in its previous order that failure to respond would result in the Complaint’s dismissal due to abandonment. Complainant failed to submit a response. As a result, the Court once again 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 December 3, 2024.

Honorable Jean C. King
Chief Administrative Law Judge

² As a forum of limited jurisdiction, this Court may only hear cases of discrimination based on citizenship status when the employer employs more than three individuals, and for national origin discrimination, claims against employers employing between four and fourteen individuals. *See United States v. Facebook, Inc.*, 14 OCAHO no. 1386b, 6–7 (2021); 8 U.S.C. §§ 1324b(a)(1)(A), (a)(2)(A), (a)(2)(B). Without sufficiently pled facts, the Court cannot determine whether it has jurisdiction to adjudicate Complainant’s § 1324b claims. *See Li Yong Hong Corporation*, 17 OCAHO no. 1472 at 1–2, 1 n.1.

³ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024).

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.