

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

MARTIN MENDOZA,)	
)	
Complainant,)	8 U.S.C. § 1324b Proceeding
v.)	OCAHO Case No. 2024B00095
SONNY YILMAZ, D/B/A TURKONEONONE))	
LLC, BELLA EVENT CENTER, BELLA)	
COMPUTER STORES,)	
)	
Respondent.)	
)	

Appearances: Martin Mendoza, pro se Complainant
Sonny Yilmaz, pro se Respondent

ORDER ACCEPTING ANSWER TO COMPLAINT AND NOTIFICATION OF
RESPONDENT'S CHANGE OF ADDRESS

I. PROCEDURAL HISTORY

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324b. Complainant, Martin Mendoza, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on April 1, 2024. Complainant alleges that Respondent, Sonny Yilmaz, doing business as Turkoneonone LLC, Bella Event Center, and Bella Computer Stores, discriminated against him because of his national origin and citizenship status, retaliated against him, and asked him for more or different documents than required for the employment eligibility verification process, in violation of 8 U.S.C. §§ 1324b(a)(1), (a)(5), and (a)(6). Compl. § 6.

On April 9, 2024, the Chief Administrative Hearing Officer (CAHO) sent the parties a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices (NOCA) and a copy of the complaint by United States Postal Service (USPS) certified mail. In the NOCA, the CAHO informed the parties that the proceedings in this matter would be governed by

OCAHO's Rules of Practice and Procedure for Administrative Hearings¹ and applicable case law. Notice Case Assignment ¶ 2. The CAHO provided the parties with links to OCAHO's website where the parties could locate OCAHO's Rules, its published decisions,² and its Practice Manual.³ *Id.* The CAHO also informed the parties that “[a]ll representatives and parties are also required to maintain a current address with OCAHO and to timely file a notice of a change of address with the presiding Administrative Law Judge . . . and must also serve such notice on the opposing party.” *Id.* (first citing *United States v. Cordin Co.*, 10 OCAHO no. 1162, 4 (2012) (“It is the Respondent’s responsibility (indeed, the responsibility of all parties before OCAHO) to file a notice of change of address or other contact information directly with the [Administrative Law Judge], as well as serving that notice on the opposing party.”); and then citing *cf.* 28 C.F.R. § 68.6(a) (“Except as required by § 68.54(c) and [§ 68.6(c)], service of any document upon any party may be made . . . by mailing a copy to the last known address.”)). Finally, the CAHO explained that Respondent must file an answer to the complaint within thirty days after receiving the complaint. *Id.* ¶ 4. If Respondent failed to timely file an answer, the CAHO cautioned Respondent that the Administrative Law Judge (ALJ) may find that Respondent waived his right to appear and contest the allegations of the complaint, and the ALJ may enter default judgment. *Id.*

The CAHO sent the NOCA and complaint to two addresses for Respondent that Complainant provided in the complaint. The NOCA and complaint sent to Respondent’s Midway Road address were returned to OCAHO due to an “insufficient address.” However, according to the USPS website’s certified mail tracking service, the NOCA and complaint sent to Respondent’s Venture Drive address were delivered to a “front desk/reception/mail room” on April 16, 2024. Therefore, Respondent’s

¹ OCAHO’s Rules of Practice and Procedure for Administrative Hearings are available on OCAHO’s homepage on the United States Department of Justice’s website. *See* <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

² OCAHO’s published decisions are available, organized chronologically and by topic, online at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

³ The OCAHO Practice Manual, which is part of the Executive Office for Immigration Review’s Policy Manual, provides an outline of the procedures and rules applicable to cases before OCAHO. It is likewise available on the U.S. Department of Justice’s website. *See* <https://www.justice.gov/eoir/eoir-policy-manual/part-iv-ocaho-practice-manual>.

answer to the complaint was due no later than May 16, 2024. 28 C.F.R. §§ 68.3(b), 68.9(a).

On May 7, 2024, OCAHO received a letter from Respondent which appeared to be an attempt to file an answer to the complaint. On May 30, 2024, OCAHO sent Respondent a letter rejecting this attempted filing. In its rejection letter, OCAHO explained that Respondent's letter filing did not conform with OCAHO's Rules of Practice and Procedure for Administrative Hearings. OCAHO explained that filings with OCAHO must contain a case caption, including the case name and number, a title, the name and signature of the individual submitting the filing, the date, and a certificate of service indicating service on the opposing party. May 30, 2024, Letter 1-2 (citing, *inter alia*, 28 C.F.R. §§ 68.7(a), 68.6; OCAHO Practice Manual, Chapters 3.2, 3.3 (Mar. 13, 2023)). Moreover, OCAHO explained that an answer to a complaint must include statements addressing the allegations in the complaint, and whether Respondent admits, denies, or does not have sufficient information to admit or deny, each allegation. *Id.* at 2 (citing 28 C.F.R. § 68.9(c); OCAHO PM, Chap. 3.5). OCAHO directed Respondent to revise and resubmit his filing by July 1, 2024. *Id.* at 1.

OCAHO mailed this May 30, 2024, letter to Respondent's Midway Road address and sent copies to Complainant and to the Immigrant and Employee Rights Section (IER) of the United States Department of Justice's Civil Rights Division. The letter sent to Respondent was returned to OCAHO due to an insufficient address. Therefore, on July 3, 2024, OCAHO sent an additional copy of this letter to Respondent's Venture Drive address and a courtesy copy by email. To account for delays due to the re-sent letter, OCAHO adjusted the deadline for Respondent to revise and resubmit his filing to July 23, 2024. July 3, 2024, Letter 1.

On July 29, 2024, Respondent submitted a filing entitled Answer or Answer to Complaint. However, this filing did not include a certificate of service indicating service on Complainant or on the IER. Therefore, on August 5, 2024, OCAHO emailed Respondent, Complainant and the IER, attaching a scanned copy of the July 29, 2024, filing, and asking Respondent to confirm whether he served his filing on Complainant and the IER. Respondent replied to OCAHO, without including Complainant or the IER, and stated that he did not send a copy of the filing to Complainant or the IER. Complainant then also replied, only to OCAHO, indicating that he had not received a copy of the filing.

On August 7, 2024, OCAHO mailed the parties a Standard Rejection Notice and emailed a copy to the parties. OCAHO attached copies of both Complainant's and Respondent's emails to ensure that all parties were apprised of these communications. The Court explained that it would reject Respondent's July 29, 2024, Answer, because it was not served on Complainant or on the IER. The Court explained that Respondent must re-file his Answer, send copies to Complainant and

the IER, and include a signed certificate of service certifying that he sent these copies. The Court directed Respondent to submit this filing by August 9, 2024, and informed Respondent that, as a courtesy, he could submit the filing by facsimile or by email, if he also mailed an original copy to OCAHO.

Respondent sent two replies to OCAHO's email on August 7, 2024.⁴ In the first, Respondent asked the Court for leniency regarding the filing deadlines, explaining that personal difficulties had prevented him from meeting deadlines and properly serving filings on Complainant. Respondent also informed OCAHO that his old mailing address was no longer the best way to reach him and asked that future filings be sent to his home address, which he provided. In his second email, Respondent provided additional supporting documentation regarding personal difficulties.

On August 14, 2024, Respondent filed an Answer to the complaint by mail. This filing contained a certificate of service indicating the date and manner of service on Complainant and the IER. However, the certificate of service was unsigned.

II. DISCUSSION

A. Respondent's Answer

As a threshold matter, the Court must determine whether to accept Respondent's corrected August 14, 2024, Answer to the complaint, even though it was filed five days after the August 9, 2024, deadline set by the Court, and Respondent did not sign the certificate of service attached to the filing.

OCAHO ALJs may exercise discretion to accept untimely filings. *See Villegas-Valenzuela v. INS*, 103 F.3d 805, 811 n.5 (9th Cir. 1996) (citing 28 C.F.R. § 68.11(b)) ("[T]he [OCAHO] ALJ maintains discretion to accept pleadings within a time period he may fix."). In this circumstance, the Court will exercise discretion to accept Respondent's late submission. In exercising this discretion, the Court has considered the fact that Respondent attempted to file its answer within the thirty-day window specified in the NOCA, promptly responded to both of OCAHO's rejection notices for his filings and attempted to follow OCAHO's instructions as to how to remedy the pleading deficiencies in his submissions. The Court also considers the fact that Respondent is not represented by counsel and the short length of the filing

⁴ Respondent did not include Complainant on these two emails to the Court. The Court has therefore attached copies of these emails to this Order to ensure that Complainant has notice of these communications.

delay, namely, five days. Finally, the Court considers Respondent's explanation of personal circumstances affecting his ability to meet these deadlines and serve copies of his pleadings on Complainant and the IER. *See United States v. De Jesus Corrales-Hernandez*, 17 OCAHO no. 1454, 4 (2022) (exercising discretion favorably to accept an answer and response to order to show cause filed seven days after the deadline, considering, *inter alia*, the short time elapsed and the respondent's pro se status).

Moreover, the Court will accept the corrected August 14, 2024, Answer to the complaint, even though Respondent did not sign the certificate of service. OCAHO ALJs likewise have discretion to accept otherwise non-compliant filings. *See, e.g., Rogers v. Serv. Experts*, 16 OCAHO no. 1415, 2 (2022) (exercising discretion and accepting improperly served filing). Again, the Court considers Respondent's pro se status and his proffer of personal difficulties in determining whether to exercise this discretion. The Court also considers Respondent's apparent good faith attempts to comply with OCAHO's directives regarding filing procedures by signing the Answer and including a unsigned certificate of service reflecting service on both Complainant and the IER. *See, e.g., Talice v. Centria Autism*, 20 OCAHO no. 1597, 2 (2024) (exercising discretion to accept pro se submission despite lack of certificate of service).

Although the Court will exercise discretion to accept Respondent's untimely and non-compliant Answer to the complaint, the Court cautions Respondent that it may reject any additional non-compliant or untimely filings. Respondent must comply with OCAHO's filing requirements. OCAHO has repeatedly informed the parties that all filings must contain a signed certificate of service. This information was provided in the NOCA, in the Court's July 3, 2024, rejection letter, and in the Court's August 7, 2024, standard rejection notice. The Court also has advised the parties to avail themselves of the resources on OCAHO's website, including OCAHO's Rules of Practice and Procedure for Administrative Hearings and its Practice Manual, both of which specify that all filings must contain a signed certificate of service. 28 C.F.R. § 68.6; OCAHO PM, Chap. 3.2. Finally, the Court has provided contact information for OCAHO and has encouraged the parties to contact OCAHO with any questions regarding filing procedures. The Court is cognizant that Respondent is pro se and has communicated that he is undergoing personal difficulties. However, “[t]he Court expects every party, even those appearing pro se, to comply with rules and orders.” *Ravines de Schur v. Easter Seals-Goodwill N. Rocky Mountain, Inc.*, 15 OCAHO no. 1388a, 3 (2021) (citing 28 C.F.R. § 68.1).

B. Respondent's Change of Address

In his August 7, 2024, email to OCAHO, Respondent asked that the Court no longer mail correspondence to his old address. He provided OCAHO with a new mailing address, namely, his home address.

It is the responsibility of all parties before OCAHO to timely notify the Court and opposing parties of a change of address. *Ferrero v. Databricks*, 18 OCAHO no. 1505, 2 (2023) (“All representatives and parties are also required to maintain a current address with OCAHO and to timely file a notice of a change of address with the presiding ALJ . . . and must also serve such notice on the opposing party.” (citing *United States v. Cordin Co.*, 10 OCAHO no. 1162, 4 (2012))); *see also United States v. Panamerican Supply Co.*, 5 OCAHO no. 804, 654, 655 (1995) (“[I]t is the Respondent’s duty to keep both the Court and the opposing party informed as to its current mailing address and telephone number.”); *United States v. Ortiz*, 6 OCAHO no. 904, 919, 925 (1996) (“It is the party’s responsibility to inform the Court and opposing party of any change of address.”).

Respondent’s email to the Court did not comply with the Court’s filing requirements, and Respondent did not send this notice to Complainant or to the IER. However, given the nature of this notification, the Court will exercise discretion to accept Respondent’s email as a notification of a change in address and keep that address as Respondent’s address of record in this matter. As discussed above, the Court has attached a copy of the email with the new address to this Order to ensure that all parties are informed of Respondent’s address of record in this case. OCAHO has updated Respondent’s mailing address on the service list for this matter and shall mail all orders to Respondent’s new address of record. Complainant and the IER are directed to serve their filings on Respondent at his new address of record, namely, the residential address he provided in his email. This address is listed on the certificate of service attached to this Order.

III. ORDERS

IT IS SO ORDERED that the Answer filed by Respondent, Sonny Yilmaz, doing business as Turkoneonone LLC, Bella Event Center, and Bella Computer Stores, is ACCEPTED as a filing in this case; and

IT IS FURTHER ORDERED that the parties shall serve all filings in this case on Respondent at his new address of record.

SO ORDERED.

Dated and entered on January 16, 2025.

Honorable Carol A. Bell
Administrative Law Judge