

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

STEPHEN A. LEWIS,)
Complainant,)
)
v.) 8 U.S.C. §1324b Proceeding
) Case No. 91200105
OGDEN SERVICES,)
Respondent.)
_____)

ORDER DENYING COMPLAINANT'S REQUEST FOR
RECONSIDERATION
(October 7, 1991)

By letter dated October 1, 1991, received by me on October 4, 1991, Complainant contends that he had not received the affidavit attached to Respondent's August 26, 1991 pleadings. On that basis he challenges the conclusion in the Decision and Order of September 23, 1991 that Respondent employs more than 15 persons at its Washington National Airport facility. Complainant's letter, reciting that "I have never gotten any response from Ogden Services on any issues that I have raised or otherwise," can be read also as suggesting he failed to receive any of Respondent's filings.

The filings of documents following issue of a decision and order is not contemplated by the Rules of Practice and Procedure for cases before administrative law judges (Rules) pursuant to 8 U.S.C. §1324b. 28 C.F.R. Part 68. Also, because Complainant's October 1 letter fails to contain "a certification indicating service to all [or any] parties of record," it appears to be ex parte in nature, not having been served on Respondent. (The same appears to be the case with respect to a letter from Complainant dated September 24, received September 27, presumably a form of renewed request for default judgment which may have crossed in the mail with the Decision and Order.)

Although Complainant is pro se in this proceeding, his letters reflect a familiarity with the Rules which were provided to him with the notice of hearing. Despite his failure to observe the requirement for

certifying service of pleadings, I will treat his October 1 letter as in the nature of a request for consideration.

Requests for reconsideration are not contemplated by the Rules. Except for the correction of clerical errors, I am unaware of authority on the part of the judge to affect a final Decision and Order once issued. See, e.g., U.S. v. Marcel Watch Corporation, 1 OCAHO 169 (5/10/90) (Order Amending Final Decision and Order, granting unopposed motion to correct clerical error).

Nevertheless, it is noted that Respondent's pleadings filed August 27 bore an August 26, 1991 certificate of service by counsel for Respondent, that the certificate showed a mailing to the post office box address he has utilized consistently throughout this proceeding, and that the filing was transmitted by a letter from counsel of that date which showed an open copy to Stephen A. Lewis. The forum accepts certificates of service at face value. Service is complete upon mailing. 28 C.F.R. §§68.3(c), 68.7(c)(1). Moreover, Complainant does not suggest that Respondent employs fewer than 15 employees at its Washington National Airport facility.

As a courtesy only, the copy of this Order addressed to Complainant transmits the August 27 filing of Respondent, and the copy addressed to Respondent transmits Complainant's letters dated September 24, and October 1, 1991.

Complainant's attention is invited to the last paragraph, page 5 of the Decision and Order, reciting that it was "the final administrative order in this case pursuant to 8 U.S.C. §1324b(g)(i)" and cautioning that Complainant may appeal "[N]ot later than 60 days after entry. . . ."

Having considered Complainant's letter as in effect a request for reconsideration, that request for the reasons stated above is denied.

SO ORDERED.

Dated this 7th day of October, 1991.

MARVIN H. MORSE
Administrative Law Judge