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

TRAVIS DARNELL AUSTIN, Complainant, v. SPECIALIZED STAFFING SOLUTIONS, INC., Respondent.	)	8 U.S.C. § 1324b Proceeding OCAHO Case No. 2023B00009

Appearances: Travis Darnell Austin, pro se Complainant
Leah Toro, Esq., and Courtney Tedrowe, Esq., for Respondent

AMENDED[1] ORDER GRANTING RESPONDENT'S MOTION FOR SUMMARY DECISION

I. PROCEDURAL HISTORY

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On November 21, 2022, Complainant Travis Austin filed a Complaint against Respondent Specialized Staffing Solutions, Inc. (SSSI). Complainant alleges that SSSI discriminated against him on account of his citizenship status and national origin, in violation of 8 U.S.C. § 1324b(a)(1); retaliated against him for engaging in § 1324b protected activity, in violation of 8 U.S.C. § 1324b(a)(5); and engaged in unfair documentary practices, in violation of 8 U.S.C. § 1324b(a)(6). On January 3, 2023, Respondent filed its Answer and Affirmative Defenses.

A. Complainant's Adverse Inference Sanctions Related to Discovery Violations

On May 30, 2023, Respondent filed a Motion to Compel Discovery, seeking the production of ten Requests for Production of Documents and either to compel Complainant's response to or deem one Request for Admission to have been admitted. Mot. Compel 4.

[1] The Court issued an Order Granting Respondent's Motion for Summary Decision on April 30, 2025. This Order amends the April 30, 2025 Order only to correct typographical errors.

On October 31, 2023, the Court granted in part and denied in part Respondent's Motion to Compel Discovery, directing Complainant to provide responses by November 17, 2023. Austin v. Specialized Staffing Solutions, Inc., 18 OCAHO no. 1513, 10 (2023).[2]

Complainant did not respond to the order, and subsequently Respondent moved for sanctions related to violations of the Court's order. Respondent sought sanctions of an adverse inference on the requests for production of documents not produced, and for several admissions. Mot. Sanctions 2-3.

Complainant did not respond to this motion either, and on July 31, 2024, the Court issued an Order on Respondent's Motion for Sanctions. Austin v. Specialized Staffing, 18 OCAHO no. 1513b (2024). The Court also gave Respondent an opportunity to amend its original Motion for Summary Decision. Id. at 10.

B. Summary Decision

On September 1, 2023, Respondent filed its initial Motion for Summary Decision and Brief in Support of Motion for Summary Decision. On August 30, 2024, following the Court's Order on Respondent's Motion for Sanctions, Respondent filed its Amended Motion for Summary Decision.

Complainant opposed the motion, filing its opposition on September 9, 2024.[3]

II. FINDINGS OF FACT

Following OCAHO precedent, Federal Rule of Civil Procedure 56, and Celotex v. Catrett, 477 U.S. 317 (1986) and its subsequent case law, the Court construes the facts in the light most favorable to the non-moving party. Fed. R. Civ. P. 56; Monty v. USA2Go Quick Stores, 16

[2] Citations to OCAHO precedents reprinted in bound Volumes 1 through 8 reflect the volume number and the case number of the particular decision, followed by the specific page in that volume where the decision begins; the pinpoint citations which follow are thus to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents subsequent to Volume 8, where the decision has not yet 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 in the Westlaw database "FIM-OCAHO," or in the LexisNexis database "OCAHO," or on the website at https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions.

[3] Complainant's opposition also included belated arguments in opposition to the motion for sanctions, and a second belated attempt to provide discovery responses responsive to the Court's 2023 order. As stated in the order granting the motion for sanctions, the discovery responses were extraordinarily tardy and presented without good cause for the delay. Complainant's response to the motion for sanctions is similarly tardy. The General Litigation Order explained that responses to motions must be filed within 14 days after receiving the motion. Respondent's Motion for Sanctions was filed on December 20, 2023. Complainant argued against sanctions in a filing submitted on September 9, 2024, roughly one year after the motion was sent. Complainant offers no explanation for his failure to respond for nearly a year. Accordingly, the Court will not consider these arguments in evaluating the present motion for summary decision.

OCAHO no. 1443c, 5 n.5 (2024); United States v. Four Seasons Earthworks, Inc., 10 OCAHO no. 1150, 3 9201) (citing Celotex Corp., 477 U.S. at 323).

A. Facts

Respondent is a staffing agency based in Illinois; it employs more than 15 employees. Compl. 6, Answer ¶¶ 5, 13, Brief Mot. Summ. Dec. 2. Respondent provides temporary employment to skilled and unskilled laborers in the Chicagoland area. Answer ¶ 13.

Printing Arts[4] is a client of Respondent. Brief Mot. Summ. Dec., Declaration of Samantha Kruger ¶ 2.

Complainant was born in America and is consequently a United States citizen. Compl. 4. He asserts that he was a citizen of the "U.S.A. Republic" at the time of the alleged discrimination.[5] Id.

Respondent hired Complainant on February 1, 2022. IER Charge 2; Answer ¶ 14; Brief Mot. Summ. Dec. 2.

As part of Complainant's onboarding process, Respondent requested that he fill out an I-9 form indicating his eligibility to work in the United States. Answer ¶ 14. The form requires Complainant to produce a select category of documents confirming his identity, and to attest to his eligibility to work. 8 U.S.C. §§ 1324a(b)(1), (b)(2). The form also requires Respondent to attest to having seen the identification and to assert that it does not appear to be fraudulent. 8 U.S.C. § 1324a(b)(1)(A).

Complainant submitted a driver's license issued by the "United States of America Republic, Province of Missouri." Answer., Ex. A at 1. He also provided Respondent with a birth certificate that was issued by the "United States of America Republic." Id., Ex. A at 2. Respondent's Staffing Coordinator Sandra Salinas sent Complainant's completed Form I-9 and supporting documents to Respondent File Clerk Doreen Wenzel. Ms. Wenzel accepted the form and supporting documents. Answer ¶¶ 14-16.

[4] Complainant refers to the company as "Printers Arts," Compl. 11; Respondent refers to it as "Printing Arts." Answer ¶ 10. For the sake of clarity, the Court refers to the company as Printing Arts.

[5] In the IER Charge attached to his Complaint, Complainant also states that he is "a National of the United States of America Republic" and that he is "not a United States Citizen[.]" IER Charge 3, Compl. 10. Complainant presents no evidence that he ever undertook to renounce his United States citizenship, or that the United States government ever acknowledged his apparent denaturalization. *See* 8 U.S.C. § 1481(a) (loss of nationality by native-born or naturalized citizens). As described in more detail below, the Court presumes that Complainant continues to be, notwithstanding his representations, a United States citizen. A contrary inference would put an immediate end to his claim of citizenship-based employment discrimination under 8 U.S.C. § 1324b, in that Complainant offers no argument or evidence that he meets the other definitions of a "protected individual" under the statute. 8 U.S.C. § 1324b(a)(3).

On February 24, 2022, Respondent assigned Complainant to work at Printing Arts. Compl. 11; Answer ¶ 10, ¶ 17. There, he worked as a forklift operator on the third shift. Compl. 11; Answer ¶ 10. He was qualified for the jobs that he assigned. Compl. 8, 10; Answer ¶ 8.

Complainant understood that he was required to work at Printing Arts for 90 days as a temporary employee before he was eligible to be hired by Printing Arts as a permanent employee. Compl. 11.

In April 2022, Respondent's Compliance Officer Samantha Kruger reviewed Complainant's application and concluded that the documents he produced did not comply with the Form I-9 regulations. Answer ¶¶ 19-20.

She determined that Complainant's driver's license and birth certificate were not lawfully issued by a state, county, territory, or municipality of the United States as the regulation requires. Answer ¶¶ 19-20.

Ms. Kruger contacted Complainant to advise that the documents were invalid for the purposes of the I-9 form. She asked him to submit I-9 approved documents to continue his employment. Answer ¶ 21, Compl. 10, 12. Ms. Kruger gave Complainant a copy of the last page of the Form I-9, which identified the appropriate documents, for reference. Answer ¶ 21.

Complainant responded that his documents were issued "by the U.S.A. Republic/Morocco." Compl. 10. He thereafter submitted "a letter from the Internal Revenue Service . . . rejecting Complainant's request that the United States of American Republic Corporation . . . be treated as exempt from taxation; and . . . the Articles of Incorporation of the United States of America Republic Corporation." Answer ¶ 22, Compl. 10.

Respondent informed Complainant that the documents were not accepted and asked him to provide appropriate documentation. Answer ¶ 22. Complainant did not do so. Id.

Respondent fired Complainant shortly thereafter.[6] Answer ¶ 23. Complainant asserts that he was hired at Printing Arts on or around the same time, but he was terminated after one shift. Compl. 11.

[6] The date of Complainant's termination from Respondent and employment at Printing Arts has not been clearly set out by either party. Complainant asserts that he was hired as a permanent employee at Printing Arts. Compl. 11. Complainant asserts that he was retaliated against on April 15, 2022; he describes the nature of his retaliation as Respondent terminating Complainant and advising Printing Arts not to release him from Respondent's employment to be hired by Printing Arts. Id. This statement conflicts with Complainant's account of Respondent requiring employees to serve at least 90 days as temporary employees before being hired by the company where the temporary worker was assigned. Id. Complainant does not answer the part of the Complaint questionnaire asking when he was terminated, but presuming that it was the date he identified as the date of the retaliation, April 15, 2022, it was 50 days between the date of his assignment at Printing Arts to the date of his termination from both Respondent and Printing Arts. Complainant asserts that he seeks backpay from Respondent beginning on May 15, 2022 — presuming that this is the date of his termination, that is 80 days from the date of his first assignment at Printing Arts.

III. LEGAL STANDARDS

A. Summary Decision

Under OCAHO's Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024), an "Administrative Law Judge shall enter a summary decision for either party if the pleadings, affidavits, material obtained . . . show that there is no genuine issue as to any material fact and that a party is entitled to summary decision." 28 C.F.R. § 68.38(c).[7] OCAHO's regulation on summary decision mirrors Federal Rule of Civil Procedure 56(c), so the Court may "look[] to federal case law interpreting Rule 56(c) for guidance . . . ." Brown v. Pilgrim's Pride Corp., 14 OCAHO no. 1379a, 11 (2022) (citing Martinez v. Superior Linen, 10 OCAHO no. 1180, 5 (2023)); *see also* 28 C.F.R. § 68.1.

"'An issue of material fact is genuine only if it has a real basis in the record' and '[a] genuine issue of material fact is material if, under the governing law, it might affect the outcome of the suit.'" Sharma v. Lattice Semiconductor, 14 OCAHO no. 1362d, 8 (2023) (quoting Sepahpour v. Unisys, Inc., 3 OCAHO no. 500, 1012, 104 (1993)). The moving party has the "initial burden of demonstrating both the absence of a material factual issue and that the party is entitled to judgment as a matter of law . . . ." Brown, 14 OCAHO no. 1379a, at 11 (quoting United States v. Four Seasons Earthworks, Inc., 10 OCAHO no. 1150, 3 (2012)). At that point, the "nonmoving party must come forward with contravening evidence to avoid summary resolution." Id. However, the "party opposing the motion" for summary decision "may not rest upon the mere allegations or denials of" its pleadings but must instead "set forth specific facts showing that there is a genuine issue of fact for the hearing." 28 C.F.R. § 68.38(b); *see also* United States v. 3679 Com. Place, Inc., 12 OCAHO no. 1296, 4 (2017). Without proof, "the Court will not assume that the non-moving party could or would prove the necessary facts." Brown, 14 OCAHO no. 1379a at 11 (citing Crespo v. Famsa, Inc., 13 OCAHO no. 1337, 3 (2019)). The Court "views all facts and inferences 'in the light most favorable to the non-moving party.'" Sharma, 14 OCAHO no. 1362d at 8 (quoting United States v. Primera Enters., 4 OCAHO no. 615, 249, 261 (1994)).

B. Burdens of Proof

To prove a § 1324b discrimination case, complainants "may use direct or circumstantial evidence . . . ." Sharma, 14 OCAHO no. 1362d, at 9 (citing United States v. Diversified Tech. & Servs. Of Va., Inc., 9 OCAHO no. 1095, 13 (2003)). "Direct evidence is evidence that, on its face, establishes discriminatory intent." Brown, 14 OCAHO no. 1379a, at 12. Complainants, however, rarely present direct evidence. Id. (citing Nguyen v. ADT Eng'g, Inc., 3 OCAHO no. 489, 915, 922 (1993)). For cases relying on circumstantial evidence, OCAHO utilizes the burden shifting framework from McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802-05, (1973), and subsequent cases. *See* Reed v. Dupont Pioneer Hi-Bred Int'l, Inc., 13 OCAHO no. 1321a, 3 (2019).

Under the McDonnell-Douglas framework, a complainant must first establish a prima facie case of discrimination. Then the respondent must "articulate some legitimate, non-discriminatory

[7] OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024). The rules are also available through OCAHO's webpage on the United States Department of Justice's website. *See* https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations.

reason for the challenged employment action[.]" Brown, 14 OCAHO no. 1379a, at 12. If the respondent succeeds, then the complainant must prove by a preponderance of the evidence that the proffered reason is "false and that Respondent intentionally discriminated[.]" Sharma, 14 OCAHO no. 1362d, at 9.

Complainant may also prove retaliation claims "through direct evidence or by circumstantial evidence through the McDonnell Douglas burden shifting test." Ndzerre v. Wash. Metro. Area Transit Auth., 13 OCAHO no. 1306a, 8-9 (2018) (citing Breda v. Kindred Braintree Hosp., LLC, 10 OCAHO no. 1202, 7 (2013)).

Similarly, "the facts in a[n unfair documentary practices] case must . . . be examined in the same manner and with the same approach as is taken in any other intentional discrimination case" so that "[w]here a case rests on circumstantial evidence . . . the employer must be afforded the opportunity to respond to a prima facie showing by proffering a legitimate nondiscriminatory reason for the employment practice complained of." United States v. Diversified Tech. & Servs. of Va., Inc., 9 OCAHO no. 1095, 18 (2003).

C. National Origin Discrimination

"It is an unfair immigration-related employment practice to discriminate" in hiring or discharge "because of . . . national origin . . . ." 8 U.S.C. § 1324b(a)(1)(A). For an employer to be covered by the national origin discrimination prohibition in 8 U.S.C. § 1324b, the employer must have between four and fourteen employees during the relevant period. *See* 8 U.S.C. § 1324b(a)(2)(A) (excepting employers with three or fewer employees from coverage); 8 U.S.C. § 1324b(a)(2)(B) (excepting from coverage claims of national origin discrimination for entities covered under Title VII of the Civil Rights Act); 42 U.S.C. § 2000e(b) (defining employer for Title VII of the Civil Rights Act as one that "has fifteen or more employees[.]").

D. Citizenship Status Discrimination

It is also "an unfair immigration-related employment practice to discriminate" in hiring or discharge "because of . . . citizenship status" for protected individuals. 8 U.S.C. § 1324b(a)(1)(B). A protected individual is defined as "a citizen or national of the United States," or an alien who is appropriately work authorized, subject to certain exceptions. 8 U.S.C. § 1324b(a)(3). However, "discrimination because of citizenship status which is otherwise required in order to comply with law, regulation, or executive order" is excepted from coverage. 8 U.S.C. § 1324b(a)(2)(C).

To show a prima facie case of discriminatory discharge, a complainant must demonstrate: 1) that they belong to a protected class; 2) are qualified for the position held; 3) were discharged, and 4) were replaced by a person not in the complainant's protected class, or, alternatively, that others similarly situated but not belonging to the protected group were treated more favorably. *See, e.g.*, Brown, 14 OCAHO no. 1379a at 12; Santiglia v. Sun Microsystems, Inc., 9 OCAHO no. 1110, 7 (2004); Wilson v. Waste Connections, Inc., 13 OCAHO no. 1315, 4 (2019); Sanchez Molina v. Securitas Sec. Servs. USA, Inc., 11 OCAHO no. 1261, 6 (2015). "To make a comparison of the plaintiff's treatment to that of non-minority employees, the plaintiff must show an employee

who is similarly situated to the [complainant] in all relevant respects[.]" Beal v. Convergys Corp., 489 Fed. Appx. 421, 423 (11th Cir. 2012).

E. Retaliation

Under 8 U.S.C. § 1324b(a)(5), employers are prohibited from intimidating or retaliating "against any individual for the purpose of interfering with any right or privilege secured under [§ 1324b] or because the individual intends to file or has filed a charge or complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under [§ 1324b]." To demonstrate a prima facie case of retaliation, a complainant must show: 1) the complainant engaged in protected activity under § 1324b; 2) the respondent was aware of the protected activity; 3) the complainant suffered an adverse employment action; and 4) "there was a causal link between the protected activity and the retaliatory conduct by" the employer. Gig Partners., 14 OCAHO no. 1363c, 7 (2021); *see also* Shortt v. Dick Clark's AB Theatre, LLC, 10 OCAHO no. 1130, 6 (2009). If the Complainant establishes a prima facie case, the Respondent may produce a legitimate, non-discriminatory reason for the adverse action, which the Complainant may show is pretextual. Gig Partners, 14 OCAHO no. 1363c, at 7.

"To qualify as protected conduct in this forum, the conduct must implicate some right or privilege specifically secured under § 1324b, or a proceeding under that section." Paz-Martinez v. Securitas Security Servs. USA, Inc., 11 OCAHO no. 1260, 6 (2015); *see also* Patel v. USCIS Boston, 14 OCAHO no. 1353a, 3-4 (2020) (accord).

"There must be proof that the decisionmaker knew of the protected conduct at the time the decision was made before an inference of causation may arise." Rainwater v. Doctor's Hospice of Ga., Inc., 12 OCAHO no. 1300, 17 (2017).

"The causal link between the protected activity and the respondent's employment decision or intimidating, threatening, or coercive behavior must rise to the level of 'but for' causation." Gig Partners, 14 OCAHO no. 1363c, at 8. It is strong circumstantial evidence of but for causation if the adverse action happens soon after the protected action. *See* Sperandio v. United Parcel Servs., 15 OCAHO no. 1400e, 9, 13 (2024). "The paradigmatic circumstantial evidence," for causation is close "temporal proximity between the protected conduct and the adverse action[.]" Sperandio v. United Parcel Servs., 15 OCAHO no. 1400e, 9 (2024). Crucially, a complainant must engage in the protected activity prior to the adverse action. *See* id. at 13 (finding no retaliation where the complainant filed an internal complaint with the employer following his discharge).

F. Unfair Documentary Practices

Under 8 U.S.C. § 1324b(a)(6), is it an unfair immigration-related employment practice to request "more or different documents than are required under [§ 1324a(b)] or [to] refus[e] to honor documents tendered that on their face reasonably appear to be genuine . . . if made for the purpose or with intent of discriminating against an individual" on the basis of national origin or citizenship status.

"To establish an unfair documentary practice (document abuse) claim under 8 U.S.C. § 1324b(a)(6), the Complainant must set forth two elements: an act and an intent." Monty v. USA2GO Quick Stores, 16 OCAHO no. 1443c, 10 (2024) (citing United States v. Mar-Jac Poultry, Inc., 12 OCAHO no. 1298, 25 (2017)). To satisfy the act requirement, the complainant must show that there was "a request by the employer for the [Complainant] to produce documents to satisfy an employer's obligations under IRCA, or a refusal to accept valid documents related to employment eligibility verification procedures." Id. (citing Jarvis v. AK Steel, 7 OCAHO no. 930, 111, 117 (1997), then citing Costigan v. NYNEX, 6 OCAHO no. 918, 1151, 1161 (1999)). To demonstrate intent, the Complainant must show that the "action[] was undertaken for the purpose or with the intent of discriminating against the employee on account of the employee's national origin or citizenship status." Mbitaze v. City of Greenbelt, 13 OCAHO no. 1345a, 9-10 (2020); *see also* Monty, 16 OCAHO no. 1443c at 10. Complainant must show "only an intent to act differently based on a protected characteristic," rather than specifically "an intent to deny employment[.]" Id. at 11.

IV. ANALYSIS

A. National Origin Discrimination

The parties do not dispute that Respondent employs 15 or more people, and the statute under which Complainant has filed suit directs that national origin claims involving those types of respondents cannot be adjudicated in this forum. *See* Compl. 6; Answer ¶ 5; 8 U.S.C. § 1324b(a)(2)(B).

Complainant argues that notwithstanding this representation the national origin claim should not be dismissed, however, he offers no legal authority to support his contention. Finding no support for these arguments, the Court must grant the Respondent's motion.

Accordingly, Respondent's motion is GRANTED as to the national origin-based claim.

B. Citizenship Status Discrimination

As stated above, Complainant has argued that Respondent did not hire him but the facts in this case, as adduced by both Respondent and Complainant in their pleadings, make clear that Respondent hired Complainant and that he worked at the temp agency for roughly three months. *See, e.g.* Compl. 11 ("As a temporary employee of Specialized Staffing Solution, I was sent to work for Printers Arts"); Compl. 10 ("I was fired because of my origin and the origin of the documents issued"); Compl. 16 ("I applied for employment with specialized staffing solutions February of 2022. I was allowed to work approximately three months before being terminated …"). For the purposes of this motion, the Court addresses only Respondent's adverse employment action of termination, as there is no evidence of a nonselection.

Complainant did not present any direct evidence of citizenship status discrimination. The Court therefore utilizes a McDonnell-Douglas analysis.

Addressing the first element of the prima facie case, the Court must determine whether Complainant is within the statute's protected class. The statute protects United States citizens, many lawful permanent residents, asylees, and persons with certain types of visas. Complainant has argued that he is not a United States citizen, and instead that he is a citizen of the "U.S.A. Republic" or "U.S.A. Republic/Morocco" or an "American National,"[8] the last title again being distinct from a national or citizen of the United States. Complainant also asserts that he was born in America, and in his Complaint form he checked the box for being a United States Citizen or National.

For the purposes of the motion, the Court presumes that Complainant was a United States citizen at the time of the alleged discrimination. This conclusion adheres to the available information which Complainant has submitted concerning his nationality — that he was born in America — but it also reflects the Court's obligation to presume the facts in the light most favorable to the non-moving party in evaluating a motion for summary decision.

A contrary assumption would immediately end Complainant's claims of employment discrimination under the statute. 8 U.S.C. §1324b(a)(1) provides that only "protected individuals" are within the statute's ambit. The statute defines protected individuals as: 1) citizens of the United States, 2) lawful permanent residents, 3) aliens who are lawfully admitted for temporary residence under 8 U.S.C. §1160(a)(concerning special agricultural workers), 4) lawfully admitted aliens under 8 U.S.C. § 1255a(a)(1)(concerning the adjustment of status of aliens present in the country around 1986), and 5) people who are granted asylum under 8 U.S.C. §1157. The statute further limits the protections of non-U.S. Citizens to persons who applied for naturalization within 6 months of the date that it was first offered to them. 8 U.S.C. §1324b(a)(3)(B).

Complainant does not plead any of the other categories outside of a U.S. Citizen — he leaves the sections of the Complaint questionnaire concerning lawful permanent residents and naturalized persons blank, and he does not respond to the question about visas with a visa status which provides protection under the Act. Consequently, if the Court were to take Complainant's arguments of being a non-U.S. Citizen at face value, he would fail to establish the first element of the prima facie case and Respondent's motion would be summarily granted.

The Court declines to do so, in part because of Complainant's assertion about his place of birth being in the United States, and also because Complainant presents no evidence of his attempts to denaturalize. *See* 8 U.S.C. § 1481(a) (loss of nationality by native-born or naturalized citizens).

[8] The Court need not address the meaning of "American Nationals" or members of the "U.S.A. Republic/Morocco" in the context of this decision, as Complainant fails to offer evidence demonstrating that he has renounced his U.S. citizenship, and Complainant also offers no evidence of a comparator outside his protected class. However, the Court notes that insofar as Complainant makes a claim of being a "sovereign citizen," similar arguments have been summarily rejected by the courts, inclusive of the U.S. Court of Appeals for the Seventh Circuit. *See, e.g.* Bey v. State, 847 F.3d 559 (7th Cir. 2017) (collecting cases); Bey v. U.S., 2016 U.S. Dist. WL 6238489, *2 (C.D. Ill. Oct. 25, 2016) ("The United States Court of Appeals for the Seventh Circuit has instructed district courts to 'summarily reject' the 'worn argument that a defendant is sovereign.'") (internal citations omitted); Lewis v. LVNV Funding, LLC, 2024 U.S. Dist. WL 4280942, *5 (M.D. La. Sept. 24, 2024) ("[S]overeign citizen legal arguments and theories 'are not valid in the courts of the United States' and have been overwhelmingly rejected for years as frivolous and 'indisputably meritless.'").

Presuming that Complainant establishes the first element of the prima facie case, the Court moves to the second element: that Complainant is otherwise qualified for the position he held. Respondent stipulates to this element, and accordingly the Court determines that it is fulfilled.

Moving to the third element of the prima facie case, the adverse employment action, the parties do not dispute that Respondent fired Complainant sometime after Ms. Krueger noted that Complainant's I-9 documentation was not in compliance with the statute.

Addressing the fourth and final element of the prima facie case, Complainant need demonstrate that the termination occurred under circumstances giving rise to an inference of discrimination. Put more concretely, Complainant should produce evidence that links his citizenship status with the termination. Complainant attempts to do so by asserting that a Demetrius Crawford was hired as a forklift operator, however Complainant does not state that Mr. Crawford is either a U.S. Citizen or non-U.S. Citizen. Complainant offers no evidence as to Mr. Crawford's citizenship status at all; accordingly, it is impossible for this Court to infer that Respondent terminated Complainant because of his citizenship status. Similarly, Complainant asserts that "individuals with other nationalities were hired instead, even a person with no recognized nationality was hired," Compl. 10., however he fails to identify who these people are, what are their nationalities, and whether they held sufficiently similar jobs to Complainant such that they might be regarded as comparators.

Separately, Respondent obtained a discovery related sanction from Complainant that Respondent never hired a Demetrius Crawford. The combination of Complainant's failure to plead evidence creating a causal nexus between his citizenship status and his termination, along with the discovery related sanction, prevent Complainant from establishing this element of his prima facie case.

Assuming *arguendo* that Complainant had established a prima facie case, the Respondent would be obliged to offer a legitimate non-discriminatory reason for the challenged action, which Complainant might rebut through an offer of pretext. The Court will explore these issues in the following section, which also correspond to Complainant's arguments that Respondent violated the law in its demand for more or different identification documents for his Form I-9 than he provided.

C. Unfair Documentary Practices

Complainant has also alleged that Respondent violated 8 U.S.C. §1324b(a)(6) by demanding "more or different documents than are required" for the purposes of the Form I-9, or by "refusing to honor documents tendered that on their face reasonably appear to be genuine[.]" More specifically, Complainant argues that by refusing to accept his driver's license and birth certificate Respondent acted contrary to the law.

The flaw in this argument is that the regulations make clear that not just any driver's license or birth certificate will meet the requirements of the Form I-9, but instead only a "driver's license . . . issued by a state . . . or an outlying possession of the United States" is acceptable. 8 C.F.R. § 274a.2(b)(1). Similarly, only birth certificates which are the "original or certified copy of a birth

certificate issued by a State, county, municipal authority or outlying possession of the United States bearing an official seal" may be used for the Form I-9. Id.

Complainant's driver's license was issued by the "United States of America Republic, Province of Missouri," which (unlike the state of Missouri) is not a state of the United States. Answer, Exhibit A at 1.[9] Similarly, complainant's birth certificate, which was issued by the "United States Republic" is deficient because that entity is also not a state, county, municipality, or outlying possession of the United States. Compl. 15; Answer, Exhibit A at 2.

Respondent's demand for a document which meets the statutory and regulatory requirements of the 8 U.S.C. § 1324a regime is not a violation of the statute. Complainant unambiguously failed to produce the necessary documents, despite multiple requests. This is both not a violation of 8 U.S.C. §1324b(a)(6), and it is the Respondent's legitimate non-discriminatory reason for the challenged action — it fired Complainant after he failed to comply with its instructions, which were predicated on what the statute and regulation require.

To this, Complainant makes no offer of pretext.

In that there is no issue of material fact, Respondent's motion for summary decision is GRANTED as to both its documentary practices claim and the citizenship-based discrimination claims.

D. Retaliation

Complainant appears to raise a two-part retaliation claim. First, he alleges that Respondent engaged in retaliatory discharge, and second, he alleges that Respondent retaliated by refusing to allow Respondent's client, Printing Arts, to hire Complainant. Compl. 11. Complainant has not offered direct evidence of retaliation in either situation, so the Court engages in a McDonnell-Douglas analysis.

1. Retaliatory Discharge

The Court presumes for the purposes of the motion that Complainant establishes the elements of the prima facie case with regard to the adverse employment action of firing Complainant. Complainant can show that he engaged in protected activity through his complaints of discrimination, that his employer knew about his complaints, and that he was subject to adverse employment actions in that he was terminated. Finally, one can infer a causal nexus in that the adverse employment actions occurred shortly after his complaints.

Complainant encounters difficulties in the legitimate non-retaliatory reasons for the challenged actions and the offer of pretext. They are the same as with the claim of discrimination. Respondent alleges that it terminated Complainant because he failed to produce identification compliant with the Forms I-9. To this, Complainant has no response, except to argue that the

[9] Complainant attaches to his Complaint a copy of a driver's license issued by "Province Illinois," which is also not a state.

documents he produced — which were not issued by a state, municipality, or territory of the United States — should be accepted notwithstanding the statute and regulation's specific directive that they not be. As with the prior analysis, Complainant's arguments do not carry the day, and his claim on this matter must be dismissed.

2. Retaliation Concerning Printing Arts

Concerning the claim that Respondent failed to release Complainant from his contract to retaliate against him for his complaints of discrimination, the Court similarly presumes that Complainant has established a prima facie case. Complainant complained about discrimination, his employer knew before it fired him, and the temporal proximity between the complaint and termination creates a causal nexus. Finally, an employer who interferes with an employee's attempts to find subsequent employment may create a cognizable adverse employment action. *See* Szymanski v. County of Cook, 468 F.3d 1027, 1029 (7th Cir. 2006) ("[I]t is well established that a former employee … can assert a claim that she was given negative references in retaliation for engaging in protected activity") (*citing* Robinson v. Shell Oil Co., 519 U.S. 337 (1997)).

However, as with the prior retaliation claim, Complainant's claims of retaliation founder at the legitimate non-retaliatory reasons and offers of pretext. More specifically, Respondent offers several reasons for the challenged action, and Complainant presents nothing in the way of pretext to rebut them.

Respondent asserts that it could not have prevented Complainant from taking the job at Printing Arts because he was fired from SSSI, and so the 90-day trial period which might normally occur with SSSI employees working at Printing Arts did not apply. Brief Mot. Summ. Dec., Decl. Kruger ¶ 4. Respondent argues that there was no obligation which prevented Printing Arts from hiring Complainant at any time. Id. Decl. Kruger ¶ 5. Complainant offers no evidence or argument reflecting pretext to this claim.[10]

In addition to this, the Court notes that Complainant's 90-day trial period with Respondent had not elapsed at the time that he was offered the job at Printing Arts, so absent some variation from this policy he would not normally be released. To the extent that Complainant believes that Respondent permits its employees to be released from their employment contract with Respondent

[10] The Court notes that both arguments could be true — Respondent could have terminated Complainant, releasing him to be hired at Printing Arts, and yet nonetheless have told Printing Arts not to hire Complainant for any number of reasons, inclusive of one with a retaliatory motive. However, the courts are clear that once Respondent has offered a legitimate non-retaliatory reason for the challenged action, the burden of production is on the Complainant to offer evidence or argument suggesting pretext. Reeves v. Sanderson Plumbing Prod., Inc., 530 U.S. 133, 142 (2000) ("The burden therefore shifted to respondent 'to produc[e] evidence that the plaintiff was rejected, or someone else was preferred, for a legitimate, nondiscriminatory reason.' This burden is one of production, not persuasion; it 'can involve no credibility assessment.'") (internal citations omitted); Adreani v. First Colonial Bankshares Corp., 154 F.3d 389, 394 (7th Cir. 1998) ("the burden first shifts to the employer to articulate a nondiscriminatory reason for discharging the plaintiff and then shifts back to the plaintiff to show that the employer's proffered explanation is pretextual"). Complainant had two opportunities to make an argument of pretext — at the original date for the opposition to the motion for summary decision, and at the deadline for any supplements to the original briefing. He did not do so on either occasion.

early in order to take a position at their client companies, he offers no argument or evidence to support this claim.

Respondent also repeats its contention that it fired Complainant for the legitimate non-retaliatory reason of his failure to produce identification documents complying with the Form I-9, and so even if it told Printing Arts not to hire Complainant it was based on a lawful reason, rather than a retaliatory motive. Again, Complainant offers nothing in the way of a response to this claim.

Consequently, the Court finds that Respondent has met its burden of showing that there is no material question of fact with regard to the retaliation claims, and it GRANTS Respondent's motion with regard to these claims.

V. ORDERS

Respondent's Motion for Summary Decision is GRANTED as to all claims. The case is therefore DISMISSED.

This is a Final Order.

SO ORDERED.

Dated and entered on May 13, 2025.

Honorable John A. Henderson
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.