

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

July 10, 2025

QUN WANG,	)	
Complainant,	)	
	)	
	)	
v.	)	8 U.S.C. § 1324b Proceeding
	)	OCAHO Case No. 2025B00033
	)	
	)	
META PLATFORMS, INC.,	)	
Respondent.	)	
	)	

Appearances: Daniel L. Low, Esq., and Lindsey Grunert, Esq., for Complainant  
Eliza A. Kaiser, Esq., Matthew S. Dunn, Esq., and Amelia B. Munger, Esq., for Respondent

### ORDER DENYING RESPONDENT’S MOTION TO DISMISS

On March 5, 2025, Complainant, Qun Wang, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Meta Platforms, Inc., alleging it violated the antidiscrimination provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324b(a)(1)(B). On May 19, 2025, Respondent filed a Motion to Dismiss. On May 29, 2025, Complainant filed an Opposition to Respondent’s Motion to Dismiss.

#### I. COMPLAINT

Complainant is a U.S. citizen, and he alleges Respondent discriminated against him based on his citizenship status. Compl. 2-6. According to the Complaint, he began applying to work for Respondent on January 24, 2024, Compl. 8. He also states: “[He] believes that some or all of the posted jobs [he] applied for are reserved by [Respondent] for non-citizen, foreign workers. [Respondent] certified an LCA and/or PERM certification with the Department of Labor for the posted jobs, and [Complainant doesn’t] believe qualified U.S. applicants, including [him], were seriously considered for these roles.” Compl. 7. He notes the “job remained open” after his application. Compl. 7. Complainant provides an “Addendum” wherein he identifies the location of the posting, the job title and division of Respondent business and/or “Job Order Number,” along with the date on which he applied or “submitted” an application. Compl. 13.

## II. RESPONDENT’S MOTION TO DISMISS

Through its motion, Respondent argues that “Complainant’s vague allegations do not raise any inference of discrimination and lack the specificity required to adequately state a claim [of citizenship status discrimination].” Mot. Dismiss 1. Respondent characterizes Complainant’s allegations as “vague, conclusory, and [unspecific]...” Mot. Dismiss 7–8. “Crucially, [Complainant] does not allege that Meta knew he was a U.S. citizen at the time he applied to any of the positions.” *Id.* at 7. In Respondent’s view, these claims’ lack of factual specificity renders them incapable of “creat[ing] an inference of intentional discrimination,” requiring the complaint’s dismissal. *Id.* at 8–9.

## III. COMPLAINANT OPPOSITION

In his Opposition, Complainant argues that his allegations are sufficiently specific, and that when read together, they give rise to an inference of discrimination. Opp’n 8. Complainant notes that he checked the box stating the jobs to which he applied remained open and Respondent continued taking applications. As to causation (linking his protected class to his non-selection) he relies on Respondent’s “LCA certifications and PERM certifications overlapping in time with his job applications.” *Id.* at 10 (*citing* Compl. 9; IER Charge). Complainant argues the claims “give rise to an inference of discrimination,” as they “allege[] that (1) he was a member of a protected class (a U.S. citizen), (2) that he was denied employment with Meta on at least nine occasions in 2024, and that (3) he was not hired by Meta because of his citizenship, as the roles [Complainant] applied to were earmarked by Meta for visa employees . . . .” Opp’n 5.

## IV. LAW

An OCAHO Administrative Law Judge (ALJ) may dismiss a complaint for failure to state a claim upon which relief may be granted. 28 C.F.R. § 68.10(b). This rule is modeled after Federal Rule of Civil Procedure 12(b)(6). “In considering a motion to dismiss, the court must limit its analysis to the four corners of the complaint.” *Udala v. New York State Dep’t Educ.*, 4 OCAHO no. 633, 390, 394 (1994). A complainant’s allegations of fact are accepted as true and all reasonable inferences derived therefrom are drawn in the complainant’s favor. *Id.*

OCAHO’s Rules of Practice and Procedure provide that complaints shall contain: (1) “A clear and concise statement of facts, upon which an assertion of jurisdiction is predicated”; (2) “The alleged violations of law, with a clear and concise statement of facts for each violation alleged to have occurred”; and (3) “A short statement containing the remedies and/or sanctions sought to be imposed against the respondent.” 28 C.F.R. § 68.7(b)(1)–(4).

“Statements made in the complaint only need to be ‘facially sufficient to permit the case to proceed further,’ . . . as ‘[t]he bar for pleadings in this forum is low.’” *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450, 3 (2022) (*citing United States v. Mar-Jac Poultry, Inc.*,

10 OCAHO no. 1148, 10 (2012), and then citing *United States v. Facebook, Inc.*, 14 OCAHO no. 1386b, 5 (2021)).

“A § 1324b complaint must contain sufficient minimal allegations to satisfy § 68.7(b)(3) and give rise to an inference of discrimination.” *Wangperawong v. Meta Platforms, Inc.*, 18 OCAHO no. 1510c, 7 (2024); see *Jablonski v. Robert Half Legal*, 12 OCAHO no. 1272, 6 (2016). To give rise to an inference of discrimination, a complaint must include information that links the protected class and the employment action in question. *Id.*; see *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450, 5 (2022). A complainant meets this standard by “identif[ying] a theory by which [the] Respondent allegedly violated 8 U.S.C. § 1324b” in a way that “succinctly yet clearly” informs a respondent why a complainant has brought the suit. *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450, 7 (2022).

In *United States v. Facebook*, the allegations gave rise to an inference of discrimination where they “describe[d] a scheme of set-asides of certain positions for only temporary visa holders and ineffective methods of recruitment designed to solicit minimal, if any, response from individuals outside the targeted group of temporary visa holders.” *Facebook*, 14 OCAHO no. 1386b, at 9. “The Complaint also allege[d] that to the extent U.S. workers could be in contention for these positions, they are ‘not considered’ because of their citizenship status.” *Id.* The Court found that such allegations “contain[] facts which ‘reasonably suggest a nexus between Respondent’s decision[s]’ related to divergent recruitment tactics and the citizenship status of affected U.S. workers.” *Id.* (quoting *Montalvo*, 14 OCAHO no. 1350, at 5).

In contrast, if a complaint does not plead, with sufficient specificity, why he believes the employment action was discriminatory, he will not meet OCAHO’s pleading standard. See, e.g., *A.S. v. Amazon Webservices Inc.*, 14 OCAHO no. 1381d, 16 (2021) (dismissing claim of citizenship status discrimination claim when the complainant merely asserted “in a general and conclusory fashion that Respondent discriminated against him based on his citizenship status, without citing to specific facts giving an inference to causation”) (*citing, inter alia*, *Thompson v. Sanchez Auto Servs., LLC*, 12 OCAHO no. 1302, 7–8 (2017) (dismissing discrimination claim where the complaint was “bereft of any allegations related to [] national origin apart from cursory assertions”)); *Wangperawong v. Meta Platforms, Inc.*, 18 OCAHO no. 1510c, 7–8 (2024) (allegations that the complainant applied for a position, that he was qualified, and that he was not selected, (without more) is insufficient to state a claim for hiring discrimination).

## V. ANALYSIS

The Complaint has stated a claim upon which relief can be granted as he has met the forum’s pleading standard, providing specific positions, and an articulable theory as to how his fact pattern could give rise to an inference of discrimination.

He identified his protected citizenship status. He identified the nine positions to which he actually applied with sufficient specificity such that the Respondent business could divine each position at issue. He affirms he was qualified for the positions, and they remained advertised after he applied. As to the alleged discriminatory intent, Complainant relies on the overlapping timeline between

these positions and “LCA and/or PERM certifications” filed by Respondent business as evidence it treated applicants differently based on citizenship status. Consistent with the precedent outlined above, the Complainant contains more than cursory or vague allegations, and provide sufficient specificity placing the Respondent on notice effectively.

## VI. CONCLUSION

For the reasons outlined above, Respondent’s Motion to Dismiss is DENIED. The case will proceed to its scheduled prehearing conference (on September 23, 2025) where parties can anticipate a discussion of pretrial matters, including the appropriate scope of discovery.

SO ORDERED.

Dated and entered on July 10, 2025.

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Honorable Andrea R. Carroll-Tipton  
Administrative Law Judge