

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

July 30, 2020

MARTINE MBITAZE,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324b Proceeding
	)	OCAHO Case No. 2020B00005
	)	
GREENBELT POLICE DEPARTMENT,	)	
	)	
Respondent.	)	
_____	)	

ORDER DENYING MOTION TO COMPEL

I. BACKGROUND

This case was last before this Court on June 9, 2020, when the Court denied the Complainant’s Motion to Compel because it did not meet the standards for such a motion under the Office of the Chief Administrative Hearing Officer’s (OCAHO) rules at 28 C.F.R. § 68.23(b). The Order invited the Complainant to refile the motion meeting the standards articulated in the Order and the Rules by June 18, 2020.

On July 8, 2020, Complainant filed a second motion to compel responses and exhibits, seeking responses to five requests for production (RFPs). Respondent filed an opposition on July 17, 2020. Complainant’s motion includes the specific RFPs, but does not include the Respondent’s responses or objections, does not explain why she did not file the motion by June 18, and does not certify that she attempted to confer with the Respondent as directed in this Court’s June 9 Order.

As noted in the June 9, 2020 Order, an OCAHO Administrative Law Judge has the authority to “compel the production of documents” and to compel responses to discovery requests, pursuant to 28 C.F.R. § 68.23 and § 68.28. *United States v. Rose Acre Farms, Inc.*, 12 OCAHO no. 1285, 2 (2016). However, pursuant to OCAHO Rule § 68.23(b), a motion to compel must set forth and include:

- (1) The nature of the questions or request;
- (2) The response or objections of the party upon whom the request was served;
- (3) Arguments in support of the motion; and

(4) A certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure information or material without action by the Administrative Law Judge.

Complainant's motion to compel was not filed within the timeframe established by this administrative law judge, does not include the Respondent's responses or objections to the RFPs, nor indicate there were none, does not contain arguments in support of the motion, and does not contain a certification that the Complainant conferred or attempted to confer with the Respondent. These requirements serve a purpose: they provide the basis upon which to rule, and they encourage parties to work together to resolve discovery disputes. Further, this Court has already reset the deadlines to accommodate a motion to compel filed outside of the discovery period, including allowing Complainant to refile the motion.

Accordingly, the motion to compel is DENIED.

SO ORDERED.

Dated and entered on July 30, 2020.

---

Jean C. King  
Chief Administrative Law Judge