

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

February 8, 2022

A.S.,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324b Proceeding
	)	OCAHO Case No. 2020B00073
	)	
AMAZON WEB SERVICES, INC.,	)	
Respondent.	)	
_____	)	

Appearances: A.S., pro se, for Complainant  
Stephanie L. Sweitzer, Esq. and Clayton M. Davis, Esq., for Respondent

ORDER ISSUING STAY OF PROCEEDINGS

On November 22, 2021, the Court issued an Order on Complainant’s Motion to Compel. *A.S. v. Amazon Web Servs. Inc.*, 14 OCAHO no. 1381m (2021).<sup>1</sup> On the same day, the Court also issued an Amended Scheduling Order in which it reset the deadlines in the case, making dispositive motions due by February 7, 2022.

On January 7, 2022, Complainant filed Complainant’s Motion to Withdraw the Case with Prejudice. Complainant requested the undersigned “grant withdraw of this case with prejudice and grant Complainant such further relief, in law or in equity, to which it is justly entitled,” because he “is too much busy in his life and it’s very difficult for Complainant to have enough bandwidth for [his other] cases against the Respondent where Complainant is pro-se.” Mot.

<sup>1</sup> 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 <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

Withdraw Case With Prejudice 22, 25. Respondent’s response to Complainant’s motion was due January 17, 2022. *See* 28 C.F.R. § 68.11(b). To date, Respondent has not filed a response; thus, Complainant’s motion is unopposed.

On January 20, 2022, Respondent filed a Motion for Extension of the Dispositive Motion Deadline. Respondent noted (untimely) that it does not oppose Complainant’s Motion. Mot. Ext. 1. Respondent hypothesized if Complainant’s Motion were granted, “this matter will be dismissed and it will obviate the need for Respondent to file a dispositive motion.” *Id.* As such, Respondent requested “an extension of the February 7, 2022 dispositive motion deadline to 30 days following the Court’s ruling on Complainant’s Motion.” *Id.* at 2. Complainant’s response was due on January 31, 2022. *See* 28 C.F.R. §§ 68.11(b), 68.8(a). To date, Complainant has not filed a response; thus, Respondent’s motion is unopposed.

As to Complainant’s Motion to Withdraw the Case with Prejudice (functionally, a motion requesting voluntary dismissal of his complaint), the Court notes that if it were to grant Complainant’s Motion,<sup>2</sup> the order issued would be a final order in this case.<sup>3</sup> *See A.S. v. Amazon Web Servs. Inc.*, 14 OCAHO no. 1381h, 2 n.4 (2021) (CAHO order).<sup>4</sup>

A stay of proceedings “is appropriate when it serves the interests of judicial economy and efficiency.” *Hood ex rel. Miss. v. Microsoft Corp.*, 428 F. Supp. 2d 537, 541 (S.D. Miss. 2006) (citation omitted); *cf. Monda v. Staryhab, Inc.*, 8 OCAHO no. 1002, 86, 91 (1998) (citations omitted) (“A stay of proceedings should not be granted absent a clear bar to moving ahead.”).<sup>5</sup>

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<sup>2</sup> To be clear, the undersigned expresses no opinion on the overall outcome of the merits of Complainant’s Motion or the matters in dispute as outlined in the Complaint.

<sup>3</sup> “OCAHO rules do not specifically cover a voluntary dismissal by the complainant[.]” *Zajradhara v. Changxing Corp.*, 14 OCAHO no. 1356, 2 (2020); however Federal Rule of Civil Procedure 41(a) is instructive. *See United States v. La Parisienne Bakery, LLC*, 15 OCAHO no. 1390a, 2 (2021). *See generally* 28 C.F.R. § 68.1 (“The Federal Rules of Civil Procedure may be used as a general guideline in any situation not provided for or controlled by these rules, by the Administrative Procedure Act, or by any other applicable statute, executive order, or regulation.”).

<sup>4</sup> The CAHO acknowledged “some possible tension” between the classification of OCAHO administrative law judges (ALJs) pursuant to *Lucia v. SEC*, 138 S. Ct. 2044 (2018) and “the unavailability of further administrative review of ALJ decisions in cases arising under 8 U.S.C. § 1324b” given the Supreme Court’s recent decision in *United States v. Arthrex, Inc.*, 141 S. Ct. 1970 (2021). *Amazon Web Servs. Inc.*, 14 OCAHO no. 1381h, at 2 n. 4.

<sup>5</sup> “A [trial] court has the inherent power to stay its proceedings. This power to stay is ‘incidental to the power inherent in every court to control the disposition of the causes on its docket with

Prior OCAHO ALJs have issued stays when dismissal may be imminent. *See United States v. PPJV, Inc.*, 2 OCAHO no. 373, 586, 586 (1991) (hearing stayed pending consideration of dispositive motion); *Lardy v. United Airlines*, 3 OCAHO no. 450, 555, 557 (1992) (compliance with subpoena stayed until resolution of dispositive motion); *Roginsky v. Dep't of Def.*, 2 OCAHO no. 363, 502, 502–03 (stay of proceedings ordered during settlement discussions).

The Court now determines a stay of proceedings is appropriate in this case based on the litigation's procedural posture. Consistent with the Court's decision to stay these proceedings, the Court now GRANTS Respondent's Motion for Extension.<sup>6</sup>

The parties, and the Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section (IER) by way of an amicus filing,<sup>7</sup> are not precluded from presenting written briefing on this issue or concerns, if any, raised by the stay of proceedings.

SO ORDERED.

Dated and entered on February 8, 2022.

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Honorable Andrea R. Carroll-Tipton  
Administrative Law Judge

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economy of time and effort for itself, for counsel, and for litigants.” *Microsoft Corp.*, 428 F. Supp. 2d at 541 (S.D. Miss. 2006) (first citing *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936); and then citing *Petrus v. Bowen*, 833 F.2d 581 (5th Cir. 1987)).

<sup>6</sup> There are several outstanding motions in this case; however, because Complainant now seeks case dispositive resolution by way of his Motion to Withdraw the Case with Prejudice, the Court will preserve judicial resources and defer ruling on these outstanding motions.

<sup>7</sup> *See A.S. v. Amazon Web Servs. Inc.*, 14 OCAHO no. 1381a, 6 (2021); 28 C.F.R. § 68.17.