

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

ROBERT HEATH,)	
Complainant,)	
)	8 U.S.C. § 1324b Proceeding
v.)	
)	OCAHO Case No. 2020B00089
CONSULTADD AND AN ANONYMOUS)	
EMPLOYER,)	
Respondent.)	
)	

Appearances: Robert Heath, pro se, Complainant
Michael Leonard, Esq., and Rebecca Alexander, Esq., for Respondent

NOTICE AND ORDER OF STAY

This case arises under the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324b. Complainant, Robert Heath, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on August 31, 2020. Respondent filed an answer on February 17, 2021.

Complainant called the Court on April 8 and April 18, 2022. Complainant informed an OCAHO staff member that he has experienced an emergency. It does not appear that Complainant gave notice to all other parties in this matter as required by 28 C.F.R. § 68.36.¹ Given the circumstances, the Court is providing notice to the parties of the communication.² The Court will allow Respondent 14 days from the date of this Notice to provide any response it deems appropriate regarding Complainant's communication. *See Tingling v. City of Richmond*, 13 OCAHO no. 1324b, 3 (2021).³

¹ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2022).

² The Court understands Complainant's phone calls as communication of a scheduling issue. *See* 28 C.F.R. § 68.36(a). To the extent that Complainant's phone calls could be considered ex parte communication, this Order satisfies the ALJ's obligation to disclose it to the parties and provide an opportunity for response. *See Tingling v. City of Richmond*, 13 OCAHO no. 1324b, 2–3 (2021); *see also* § 68.36(a); 5 U.S.C. § 557(d)(1).

³ 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

While Complainant did not address this case specifically, it is apparent to the Court that Complainant's emergency could affect advancement of this litigation.

The OCAHO Rules vest the Administrative Law Judge (ALJ) with all appropriate powers necessary to regulate the proceeding. *See Hsieh v. PMC-Sierra, Inc.*, 9 OCAHO no. 1091, 5 (citing 28 C.F.R. § 68.28)). The power to stay a proceeding is incidental to the court's inherent power to "control the disposition of the cases on its docket with economy of time and effort for itself, for counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) (citations omitted); *see also 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."). In the exercise of its judgment, the Court may issue a stay of proceedings *sua sponte*. *See, e.g., A.S. v. Amazon Web Servs., Inc.*, 14 OCAHO no. 13810, 2-3 (2022); *Jablonski v. Robert Half Legal*, 12 OCAHO no. 1272, 3 (2016).

The Court determines that a 60 day stay of proceedings is appropriate given the circumstances. After the 60-day stay of proceedings expires, the Court may reset the remaining case deadlines to account for the party's contemporaneous circumstances.

Therefore, the Court STAYS all proceedings in this matter for a period of 60 days.

SO ORDERED.

Dated and entered on May 19, 2022.

Honorable John A. Henderson
Administrative Law Judge

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>