

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

January 31, 2023

ZAJI OBATALA ZAJRADHARA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2021B00043
)	
LI YONG HONG CORPORATION,)	
Respondent.)	
_____)	

ORDER ISSUING STAY – ABANDONED COMPLAINT

On June 30, 2021, Complainant, Zaji Obatala Zajradhara, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO). Complainant alleges that Respondent, Li Yong Hong Corporation, discriminated against him on account of his national origin and citizenship status, in violation of 8 U.S.C. § 1324b. Compl. 6.

On September 24, 2021, the Court issued an Order to Show Cause Regarding Jurisdiction (OTSC). The Court ordered Complainant to show cause, within 45 days, on whether the Court has subject matter jurisdiction over his claims. OTSC 1, 3.¹ Complainant did not respond.

As a “forum of limited jurisdiction,” OCAHO can only hear cases within the jurisdictional limits outlined by Congress. OTSC 2 (citing *United States v. Facebook, Inc.*, 14 OCAHO no. 1386b, 5

¹ As to employee numerosity, subject matter jurisdiction encompasses unfair immigration-related practices only when the employer employs more than 3 individuals, and for national origin discrimination, claims against employers employing between 4 and 14 individuals. See OTSC 2 (citing *United States v. Facebook, Inc.*, 14 OCAHO no. 1386b, 6–7 (2021), and then citing 8 U.S.C. §§ 1324b(a)(1)(A), (2)(A), (2)(B)).

The September 24, 2021 Order to Show Cause identified that Complainant either does not know or is unable to estimate the number of employees Respondent employs, and that without sufficiently pled facts, the Court cannot determine whether it has jurisdiction to adjudicate his § 1324b claims. OTSC 2 (citing Compl. 4, 14).

(2021) (citation omitted)).² Complainant, as the party invoking jurisdiction, had the burden to plead facts sufficient to demonstrate OCAHO's jurisdiction. *Id.* (citing *Sinha v. Infosys*, 14 OCAHO no. 1373, 2 (2020)).

Separately, abandonment is an appropriate finding when a party inexplicably fails to respond to an order. 28 C.F.R. § 68.37(b)(1); see *Ravines de Schur v. Easter Seals-Goodwill N. Rocky Mountain, Inc.*, 15 OCAHO no. 1388g, 3 (2022) (citations omitted) (collecting OCAHO cases finding abandonment for failure to respond to court orders); e.g., *United States v. Cordin Co.*, 10 OCAHO no. 1162, 3–4 (2012) (CAHO order) (holding that the ALJ “correctly found” a request for hearing abandoned for failure to respond to an order to show cause).

To date, Complainant has not provided a response to the September 24, 2021 Order to Show Cause. It remains unclear whether the Court even has jurisdiction over the allegations raised in the Complaint. Based on Complainant's lack of participation in these proceedings and disregard for the Court's September 24, 2021, Order to Show Cause, the Court finds that Complainant abandoned his complaint. See *Zajradhara v. Misamis Constr. (Saipan) Ltd.*, 15 OCAHO no. 1396b, 3 (2022) (“The appropriate disposition of a jurisdictionally deficient complaint is dismissal of the case.”) (citing *Boyd v. Sherling*, 6 OCAHO no. 916, 1113, 1120 (1997)).

Because the Court finds itself in a position wherein it is unable to execute a final case disposition, it now issues a stay of these proceedings.³ *A.S. v. Amazon Web Servs., Inc.*, 14 OCAHO no. 1381h, 2 n.4 (2021); see, e.g., *A.S. v. Amazon Web Servs., Inc.*, 14 OCAHO no. 1381o, 2–3 (2022); *Ravines de Schur*, 15 OCAHO no. 1388g, 2 (2022); *Rodriguez Garcia v. Farm Stores*, 17 OCAHO no. 1449, 2–3 (2022); *Zajradhara v. LBC Mabuhay (Saipan) Inc.*, 16 OCAHO no. 1423c, 3 (2022).

During the stay of proceedings for *Zajradhara v. Li Yong Hong Corporation* (OCAHO Case No. 2021B00043), the Court will not consider or adjudicate submissions filed by the parties.

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

³ A stay of proceedings is generally defined as “a ruling by a court to stop or suspend a proceeding . . . temporarily or indefinitely. A Court may later lift the stay and continue the proceeding.” *Heath v. I-Services, Inc.*, 15 OCAHO no. 1413a, 2 n.4 (2022) (citations omitted).

The parties are not precluded from contacting the Court and requesting a status update; however, parties should bear in mind that the Court will timely inform the parties in writing when the stay is lifted. When the stay is lifted, the case will be dismissed.

SO ORDERED.

Dated and entered on January 31, 2023.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge