

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

February 8, 2023

ZAJI OBATALA ZAJRADHARA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2022B00020
)	
RANNI’S CORPORATION,)	
Respondent.)	
_____)	

Appearances: Zaji Obatala Zajradhara, pro se Complainant
Colin Thompson, Esq., for Respondent

ORDER DISCLOSING EX PARTE COMMUNICATION AND ON REQUEST FOR
COURTESY COPY

This case arises out of the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On January 25, 2022, Complainant, Zaji Obatala Zajradhara, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO). Complainant alleges Respondent, Ranni’s Corporation, discriminated against him on account of his citizenship status and national origin, and retaliated against him, in violation of §§ 1324b(a)(1),(a)(5).

On February 2, 2023, the Court received a voicemail from Complainant requesting a “complementary” copy of the order that “has all the dates that I have to send my prehearing statement in.” See Transcr. of Feb. 2, 2023 Voicemail. Complainant asserts that he has the original order but cannot find it. *Id.*

Complainant’s voicemail raises concerns about ex parte communications under the OCAHO regulations. See 28 C.F.R. § 68.36.¹ Communications with the Court “for the sole purpose of

¹ An ex parte communication is generally defined as “[a] communication between counsel or a party and the court when opposing counsel or party is not present.” See *Ravines de Schur v. Easter Seals-Goodwill N. Rocky Mountain, Inc.*, 15 OCAHO no. 1388c, 4 n.5 (2021) (quoting *Ex Parte Communications*, *Black’s Law Dictionary* (11th ed. 2019)) (emphasis added).

scheduling hearings, or requesting extensions of time are not considered ex parte communications, except that all other parties shall be notified of such request by the requesting party and be given an opportunity to respond thereto.” 28 C.F.R. § 68.36(a) (emphasis added).

Continued ex parte communications can lead to sanctions. *See Tingling v. City of Richmond*, 13 OCAHO no. 1324b, 2 (2021) (citing 28 C.F.R. § 68.36). If an ex parte communication occurs, the Administrative Procedure Act requires disclosure of the communication. *Id.* (citing 5 U.S.C. § 557(d)(1)(C)). The Administrative Law Judge (ALJ) should provide parties the opportunity to review and comment upon the communication. *Id.* Complainant’s voicemail is an ex parte communication. The voicemail was not left for the sole purpose of scheduling a hearing or requesting an extension of time. *See* 28 C.F.R. § 68.36(a). Rather, Complainant’s voicemail requests a courtesy copy of a prior order.

Such requests must be made via a written motion with service on both parties. *See* 28 C.F.R. § 68.11. Pursuant to the Court’s February 1, 2023 Order, all submissions in this phase of litigation must be filed by email, to the email addresses listed on the certificate of service, and parties must include opposing party’s email on all submissions to the Court. Order 3.

The Court now discloses to Respondent Complainant’s voicemail (attached to this Order).² Considering Complainant’s pro se status and the nature of the request, as a courtesy, the Court will provide the following to both parties: a copy of the October 19, 2022 Order for Individual Status Reports and Prehearing Statements and a copy of the February 1, 2023 Order.

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 been 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>.

² A voicemail transcription provides the parties with the substance of a prohibited oral communication, as required by the OCAHO Rules and Administrative Procedure Act. *See* 28 C.F.R. § 68.36; 5 U.S.C. 557(d)(1)(C).

SO ORDERED.

Dated and entered on February 8, 2023.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

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ERRATA

The Order Disclosing Ex Parte Communication and on Request for Courtesy Copy, issued on February 8, 2023, is hereby amended to correct the following:

1. Page 1 is corrected to read: “On February 2, 2023, the Court received a voicemail from Complainant requesting a ‘complimentary’ copy of the order that ‘has all the dates that I have to send my prehearing statement in.’”

SO ORDERED.

Dated and entered on February 14, 2023.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge