

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

October 22, 2019

DAVE O'BRIAN TINGLING,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 19B00009
)	
CITY OF RICHMOND, VA,)	
Respondent.)	
)	

ORDER GRANTING MOTION TO AMEND COMPLAINT

On January 15, 2019, Complainant, who appeared pro se, filed a complaint against Respondent alleging violations of 8 U.S.C. § 1324b. Respondent filed an answer on March 12, 2019. Complainant obtained counsel in August 2019 and, on September 5, 2019, the undersigned held a prehearing conference wherein Complainant's counsel stated that he intended to file an amended complaint. On September 26, 2019, Complainant filed a Motion for Leave to File First Amended Complaint and attached the amended complaint. On October 10, 2019, Respondent filed a Response to Motion to Amend and Answer to First Amended Complaint. Respondent states that it does not object to the Motion for Leave to Amend and filed an answer to the amended complaint.

The OCAHO Rules of Practice and Procedure permit a complainant to amend a complaint "[if] a determination of a controversy on the merits will be facilitated thereby" and "upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties." 28 C.F.R. § 68.9(e) (2018).¹ This rule is analogous to and is modeled after Federal Rule of Civil Procedure 15(a). 28 C.F.R. § 68.1. See *United States v. Valenzuela*, 8 OCAHO no. 1004, 3 (1998); *United States v. Mr. Z Enters.*, 1 OCAHO no. 162, 1128, 1129 (1990). Rule 15(a)(2) provides that after a responsive pleading is served, the "party may amend the party's pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." FED. R. CIV. P. 15(a)(2).

In its Response to Motion to Amend, Respondent states that it does not object to the motion. Complainant was pro se when he filed his complaint and the complaint contains a number of

¹ See Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2018).

detailed allegations. Complainant's counsel drafted and filed the amended complaint, which provides more concise statements of his claims. The First Amended Complaint will facilitate a determination of the controversy on its merits. As such, the Motion for Leave to File First Amended Complaint is GRANTED.

SO ORDERED.

Dated and entered on October 22, 2019.

Jean C. King
Chief Administrative Law Judge