

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

April 6, 2021

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

ORDER DENYING COMPLAINANT MOTION FOR JURY TRIAL

I. INTRODUCTION AND PROCEDURAL HISTORY

This case arises under the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324b. On June 12, 2020, Complainant filed a Complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) alleging that Respondent discriminated against him based on his citizenship status and retaliated against him in violation of § 1324b. Respondent filed an Answer on August 27, 2020.

Complainant filed the instant Motion for Jury Trial on March 15, 2021. Respondent was informed by the Court at a prehearing conference, dated March 25, 2021, a response was unnecessary.

II. LEGAL STANDARDS AND ANALYSIS

“[N]o jury trials are provided” in this forum. *United States v. Strano*, 4 OCAHO no. 623, 304, 304 (1994).¹ According to “8 U.S.C. §1324b(e)(2), hearings are to be conducted by

¹ 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

administrative law judges in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. 551, *et seq.*” *Id.* Furthermore, §1324b is clear that “the administrative law judge has sole jurisdiction to determine all questions of law and fact.” *Id.*

Complainant argues that since he is “seeking to recover forward/backward wages with interest plus any other damages” that the Seventh Amendment applies and entitles him to a jury trial. Mot. Jury Trial, at 2.

The Seventh Amendment provides: “In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.” U.S. Const. amend. VII.

The Seventh Amendment only applies to “suits at common law.” U.S. Const. amend. VII. The Supreme Court has clearly emphasized “that when Congress creates new statutory ‘public rights,’ it may assign the adjudication of those rights to an administrative agency with which a jury trial would be incompatible” *Strano*, 4 OCAHO no. 623 at 305 (citing *Atlas Roofing Co. v. Occupational Safety Comm’n*, 430 U.S. 442 (1976)).

“New causes of action” created by Congress that were “unknown to the common law... may vest fact-finding in a tribunal other than a jury, free from the strictures of the Seventh Amendment.” *Id.* (citing *Connors v. Ryan’s Coal Co., Inc.*, 923 F.2d 1461, 1465 (11th Cir. 1991)). *United States v. Strano*, clearly holds that “in all private actions under 8 U.S.C. § 1324b” adjudication by an administrative law judge, not a jury, is appropriate. *Id.* at 306.

Because proceedings in administrative agencies, including OCAHO, are treated differently and are “free from the strictures of the Seventh Amendment.” *Strano*, 4 OCAHO no. 623 at 305 (citing *Connors*, 923 F.2d at 1465), the Complainant’s Motion for a Jury Trial is DENIED.

SO ORDERED.

Dated and entered on April 6, 2021.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

database “FIM-OCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.