

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

April 12, 2022

ROBERT PAUL HEATH,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2022B00001
)	
SPRINGSHINE CONSULTING AND)	
ANONYMOUS EMPLOYER,)	
Respondent.)	
_____)	

Appearances: Robert Heath, pro se Complainant
Stephen Madoni, Esq., and Christina Bateman, Esq., for Respondent

ORDER CANCELING PREHEARING CONFERENCE

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. Complainant, Robert Heath, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on October 11, 2021. Complainant alleges Respondent, Springshine Consulting and Anonymous Employer, discriminated against him based on his national origin and citizenship status, and engaged in unfair documentary practices, in violation of 8 U.S.C. § 1324b.

The Court is in receipt of the answer and the parties' prehearing statements. On March 24, 2022, the Court issued an Order Setting Initial Prehearing Conference, scheduling the initial prehearing conference for April 13, 2022. *See* 28 C.F.R. § 68.13.¹

On April 8, 2022, Complainant called the Court. 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. Given the circumstances, the Court is providing notice to the parties of the communication.²

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

² The Court understands Complainant's phone call as communication of a scheduling issue. *See* 28 C.F.R. § 68.36(a). To the extent that Complainant's phone call could be considered an ex parte communication, this Order satisfies the ALJ's obligation to disclose it to the parties and provide

Although Complainant did not address this case specifically, nor request cancellation of the prehearing conference, it appears that Complainant will not be able to attend the scheduled prehearing conference. The Administrative Law Judge (ALJ) has discretion to direct the parties “to participate in a prehearing conference at any reasonable time prior to the hearing . . . when the [ALJ] finds that the proceeding would be expedited by such a conference.” 28 C.F.R. § 68.13(a)(1). Accordingly, the ALJ may cancel or reschedule a prehearing conference when the prehearing conference would not expedite proceedings. *See A.S. v. Amazon Web Servs., Inc.*, 14 OCAHO no. 1381n, 3 (2021); *A.S. v. Amazon Web Servs., Inc.*, 14 OCAHO no. 1381d, 3 n.5 (2021) (citing § 68.13(a)(1)).³ Accordingly, the undersigned cancels the April 13, 2022, prehearing conference. The prehearing conference will be rescheduled as soon as practicable.

The Court will allow Respondent fourteen (14) days, from the date of this Order, to provide any response it deems appropriate. *See Tingling v. City of Richmond*, 13 OCAHO no. 1324b, 3 (2021).

As soon as possible, and no later than sixty (60) days from the date of this Order, Complainant shall provide the Court with a written status report in this case, OCAHO Case No. 2022B00001. The status report shall include a statement that the parties have met and conferred on their availability for a future prehearing conference, and present three agreed upon dates in June 2022 for the prehearing conference.

Upon submission of the status report, the Court will schedule a conference as appropriate.

an opportunity for response. *See Tingling v. City of Richmond*, 13 OCAHO no. 1324b, 2–3 (2021); *see also id.*; 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 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>

SO ORDERED.

Dated and entered on April 12, 2022.

Honorable Jean C. King
Chief Administrative Law Judge