

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

April 19, 2023

RAVI SHARMA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2022B00023
)	
NVIDIA CORP.,)	
Respondent.)	
_____)	

Appearances: Ravi Sharma, pro se Complainant
Patrick Shen, Esq., K. Edward Raleigh, Esq., and Samantha Caesar, Esq.,
for Respondent

ORDER DENYING COMPLAINANT’S MOTION FOR PERJURY CHARGES

I. BACKGROUND

On April 10, 2023, Complainant, Ravi Sharma, filed a “Motion for Perjury Charges Against [an Interviewing Official] of NVIDIA Corporation” (Perjury Motion). Complainant concludes that a person who provided a declaration in this case knowingly made false statements. *See* Perjury Mot. 1–2; *see also* Mot. Summ. Dec. Ex. F. Complainant moves the Court to “punish [an Interviewing Official] for perjury by sentencing him to five years in prison and imposing fines if within Court’s power or refer the charge based on this motion with the record evidence to the United States Attorney for perjury against [an Interviewing Official].” Perjury Mot. 2 (citing 18 U.S.C. § 1621).

On April 17, 2023, Respondent filed a response to Complainant’s Perjury Motion.¹

¹ Respondent’s opposition raises a new matter for the Court’s consideration, related to privacy and nonparty witnesses. The Court is disinclined to address a new motion raised through an opposition. *See generally* 28 C.F.R. § 68.11. The Court does, however, note that it is a customary practice to refer to nonparty witnesses by positional title or initials - balancing privacy concerns with the Court’s obligation to create a clear record. *E.g., United States v. R&SL, Inc.*, 13 OCAHO no. 1333b, 4–7 (2022).

II. LAW & ANALYSIS

OCAHO’s Administrative Law Judges (ALJs) are “appointed pursuant to 5 U.S.C. [§] 3105,”² to hear cases arising under 8 U.S.C. §§ 1324a–1324c. 28 C.F.R. §§ 68.1; 68.2.³ OCAHO’s rules authorize ALJs to “[c]onduct formal hearings in accordance with the provisions of the Administrative Procedure Act” and “[t]ake any action authorized by the Administrative Procedure Act.” 28 C.F.R. § 68.28;⁴ *see* 5 U.S.C. § 556(c). ALJs “may not perform duties inconsistent with their duties and responsibilities as administrative law judges.” 5 U.S.C. § 3105.

Complainant asks the Court to enforce a federal criminal statute, to wit: 18 U.S.C. § 1621. Such a statute is enforced by an Article III judge, not an OCAHO ALJ. *See Iron Workers Loc. 455 v. Lake Constr. & Dev. Corp.*, 7 OCAHO no. 964, 632, 689 (1997) (“The enforcement of criminal statutes is committed to entities other than . . . this forum.”);⁵ 28 C.F.R. § 68.1 (noting the statutes underlying OCAHO’s “adjudicatory proceedings”). Enforcing a statute outside the Court’s jurisdiction exceeds the scope of the undersigned’s authority as an ALJ. *See* 28 C.F.R. § 68.28; 5 U.S.C. § 556(c). Separately, the Court is disinclined to forward this matter or create the appearance of an endorsement of Complainant’s theory relative to a criminal allegation.

² “Each agency shall appoint as many administrative law judges as are necessary for proceedings required to be conducted in accordance with [5 U.S.C. §§] 556 and 557,” i.e., provisions of the Administrative Procedure Act. 5 U.S.C. § 3105.

³ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023).

⁴ To discharge their duties under the APA, OCAHO ALJs may: “Administer oaths and examine witnesses; Compel the production of documents and appearance of witnesses in control of the parties; Compel the appearance of witnesses by the issuance of subpoenas as authorized by law; Issue decisions and orders[.]” 28 C.F.R. §§ 68.28(a). OCAHO ALJs may also: “Exercise, for the purpose of the hearing and in regulating the conduct of the proceeding, such powers vested in the Attorney General as are necessary and appropriate therefore; and Take other appropriate measures necessary[.]” *Id.*

⁵ 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>.

Because Complainant moves the Court to enforce a criminal statute over which it has no jurisdiction, Complainant's Perjury Motion is DENIED.

SO ORDERED.

Dated and entered on April 18, 2023.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge