

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

IN RE CHARGE OF)	
NATIVIDA ADAME-GOMEZ)	
)	
UNITED STATES OF AMERICA,)	
Complainant,)	
)	
v.)	8 U.S.C. §1324b Proceeding
)	CASE NO. 92B00162
MOJAVE, INC., d.b.a. CASA JOSE)	
CAFE, a Texas Corporation)	
Respondent.)	
_____)	

ORDER DENYING RESPONDENT'S INFERRED REQUEST
FOR RECONSIDERATION AFTER FINAL DECISION HAS BEEN EN-
TERED

On November 13, 1992 and February 9, 1993, respectively, I issued an Interim Decision And Order Granting Complainant's Motion For Default Judgment and a Final Order Regarding Requested Relief after Respondent failed to plead or defend, failed to respond to my October 14, 1992 Order To Show Cause Why Complainant's Motion For Default Judgment Should Not Be Granted, and did not file any statement regarding the issue of appropriate civil penalties.

On March 18, 1993, Respondent filed a letter pleading responding to the Complaint filed on July 31, 1992. As there was no evidence that this document was served on Complainant, in the interests of judicial economy and justice, my staff sent Complainant a copy.

I have determined that the instant Order is appropriate without Complainant's response, as there is no prejudice to either party by issuing it at this time.

From a reading of Respondent's letter pleading, I have inferred that Respondent is requesting a reconsideration of my Final Order and requesting that I accept its late Answer and affirmative defenses. In explanation for this late filing, Respondent states, "Maybe I could have responded much sooner but I'm trying to run a business that has been troubled by broken up streets and hard times. Besides, Mr. Flagg didn't bother to send these statements after promising a couple of times, until now (3-11-93)."

My interpretation of the Immigration and Nationality Act, the Rules of Practice and Procedure, and the agency case law, does not allow me to review my Final Decision And Order. 8 U.S.C. 1324b; 28 C.F.R. Part 68; Lewis v. Ogden Services, 2 OCAHO 384 (10/7/91). As such, I refer Respondent to his right to appeal my decision to the appropriate Circuit Court as described in my Final Order. I caution Respondent to pay close attention to the time limitations on filing its appeal.

For the pro se Respondent's benefit, however, I have set forth the procedural history of this case which would show that it did not lack due process:

1. On August 25, 1992, Respondent was served with a Notice Of Hearing On Complaint Regarding Unlawful Immigration-Related Employment Practices along with the Complaint by certified return receipt mail. In this Notice, Respondent was advised that the failure to file a timely Answer might result in a judgment by default and an award to Complainant of any and all requested relief;
2. On or about August 10, 1992, Respondent was served with my Notice Of Acknowledgment which again cautioned of the need for a timely Answer;
3. On September 25, 1992, Respondent was served with Complainant's Motion For Default to which it did not respond;
4. On October 14, 1992, Respondent was served with my Order To Show Cause Why Complainant's Motion For Default Judgment Should Not Be Granted in which it was advised that I would consider Complainant's Motion For Default should Respondent not file a response to my Order; Respondent did not respond;
5. On October 7, 1992, Respondent was served with Complainant's Corrected Motion For Default Judgment; Respondent did not reply;

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6. On November 13, 1992, Respondent was served with my Interim Decision And Order Granting Complainant's Motion For Default Judgment, in which I found Respondent liable for the violations alleged in the Complaint; in that Order, Respondent was given the opportunity to file a statement regarding its views on the appropriate amount of civil penalties to be awarded; Respondent did not do so, nor did it respond to Complainant's statement regarding the amount of civil penalties;

7. On January 25, 1993, Respondent was served with Complainant's Supplemental Memorandum which addressed the amount of interest to be assessed on the backpay award to the charging party; Respondent did not reply;;

9. On February 9, 1993, Respondent was served with my Final Order Regarding Requested Relief and my Errata on March 4, 1993.

Based on this review of the procedural history, and on Respondent's own admission that it could have responded sooner to the Complaint, I find that Respondent was afforded sufficient notice and an opportunity to be heard on the issues in this case.

IT IS SO ORDERED this 24th day of March, 1993, at San Diego, California.

E. MILTON FROSBURG
Administrative Law Judge