

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

UNITED STATES OF AMERICA,)
Complainant,)
)
v.) 8 U.S.C. §1324a Proceeding
) Case No. 93C00020
HARDEEP SINGH, AKA, GURLAL)
SINGH,)
Respondent.)
_____)

MARVIN H. MORSE, Administrative Law Judge

Appearances: Frederick E. Newman, Esq. for Complainant.
Hardeep Singh, pro se.

FINAL DECISION AND ORDER ON DEFAULT
(May 13, 1993)

On January 29, 1993, the Immigration and Naturalization Service (INS or Complainant) filed its Complaint, dated January 25, 1993. The Complaint includes as its Exhibit A an underlying Notice of Intent to Fine (NIF) served by INS upon Hardeep Singh aka Gurlal Singh (Singh or Respondent) on September 30, 1992. The Complaint consists of a single Count I. Count I charges Respondent with knowing use of forged documents. The civil money penalty assessed for Count I is \$1,000. INS demands a total of \$1,000 in civil money penalties. Respondent's November 25, 1992 request for hearing is Exhibit B to the Complaint.

On February 1, 1993, this Office issued a Notice of Hearing which transmitted the Complaint to Respondent. The Notice cautioned Respondent that failure to answer the Complaint within thirty days of receipt might result in a waiver of the right to appear and contest Complainant's allegations. Respondent was explicitly warned that absent a timely Answer, the judge might "enter a judgment by default

along with any and all appropriate relief." The Notice of Hearing was served on Respondent by certified mail on February 5, 1993, as confirmed by the signed delivery receipt returned to this Office by the U.S. Postal Service.

On March 15, 1993 Respondent filed a letter-pleading requesting an extension of 30 days in which to answer the Complaint. Respondent's letter stated that "I have not yet found a (sic) attorney to represent me, because I am going through financial difficulty." On March 26, 1993 the judge issued an Order Extending Time to Answer. That order gave Respondent until April 15, 1993 to file a timely answer. The order cautioned Respondent that "whether or not he obtains the services of an attorney, I will consider rendering a default judgment against him if he fails to file an answer to the complaint by April 15." To date no answer has been filed.

On March 30, 1993, Complainant filed a response to motion for additional time to answer the complaint. Complainant did not object to the extension but advised the court that, in a parallel deportation proceeding against him, Singh had represented that he was seeking legal counsel, and had requested four continuances of more than 3 months total duration.

By motion dated April 19, 1993, filed April 23, 1993, Complainant asserted that Respondent was in default of his obligation to file a timely Answer to the Complaint. Complainant requests that the court grant an order finding Respondent in default for failing to plead or otherwise defend and that Respondent be directed to pay civil money penalties in the amount of \$1,000.

OCAHO rules require an answer within thirty (30) days after service of a complaint, 28 C F R. §68.9(a) [1992]; the administrative law judge is authorized to enter a judgment by default if a respondent fails to file its answer within the time provided. 28 C F R. §68.9(b). See U. S. v. Castillo, OCAHO Case No. 92A00285 (4/1/93); U S. v. Prime Landscape Management, Inc., 1 OCAHO 204 (7/25/90). The Notice of Hearing and my Order of March 26, 1993 advised Respondent to the same effect.

I find Respondent in default, having failed to timely plead or otherwise defend against the allegations of the Complaint.

IT IS HEREBY ORDERED:

1. that the hearing in this proceeding is canceled;

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2. that as alleged in the Complaint, Respondent is in violation of §1324c(a)(2) with respect to the knowing use of forged documents;

3. that Respondent pay a civil money penalty of one thousand dollars (\$1,000) for the violations charged in the Complaint.

4. that Respondent shall cease and desist from any and further violations of 8 U.S.C. §1324c.

This Final Decision and Order on Default is the final action of the judge in accordance with 28 C.F.R. §68.53(a). As provided at 8 U.S.C. §1324c(d)(4), this action shall become the final decision and order of the Attorney General unless the Chief Administrative Hearing Officer modifies or vacates this Decision and Order within thirty (30) days from this date.

SO ORDERED.

Dated and entered this 13th day of May, 1993.

MARVIN H. MORSE
Administrative Law Judge