

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

CECILIA ARACELI BASUA,)
Complainant,)
)
v.) 8 U.S.C. § 1324b Proceeding
) CASE NO. 93B00053
WAL-MART #1554,)
Respondent.)
_____)

ORDER DENYING COMPLAINANT'S
MOTION TO REOPEN AFTER ISSUANCE
OF FINAL ORDER DISMISSING
COMPLAINT BASED ON ABANDONMENT

On August 3, 1993, I issued a Final Order in this case finding that Complainant had abandoned her claim as she had not filed the documents establishing that she was a "protected individual" under 8 U.S.C. 1324b(a)(3)(B) as directed in a prior Order. That directive had become necessary as there was an issue of my jurisdiction on Ms. Basua's citizenship discrimination claim as the record did not establish that she was a "protected individual".

On August 11, 1993, Ms. Basua filed¹ a handwritten document which I have inferred is a Motion To Reopen the case. In her letter, she pleads for help as she has no job, no money and must support her son. She states that she did not abandon her case and had thought that I had received her "papers".

Now, as I had previously directed, Ms. Basua filed a clear copy of her Social Security Card and her Resident Alien Card, both front and back. She did not, though, include any information about the basis on which

¹ Ms. Basua did not serve a copy of this "motion" on Respondent; however, based on the case's posture, I will not require her to do so.

she was granted legal permanent resident status, when she is eligible for naturalization or if she has filed for naturalization. Although I appreciate Ms. Basua's situation, I still do not have the necessary information before me which would establish that Ms. Basua is a "protected individual"; thus, I will not consider reopening this case as Ms. Basua has not established that I have jurisdiction over her claim. Further, and not insignificantly, I have issued a Final Order.

The mischief inherent in reopening a case after final decision and order for other than clerical error is best avoided by adherence to the rule that fact finding turns on an evidentiary record which once closed and the subject of final decision generally ends the litigation before the trial judge." U.S. v. Marcel Watch Co., 1 OCAHO 169 (5/10/90).

Ms. Basua may file a timely appeal as outlined in the Final Order and Decision of August 3, 1993.

SO ORDERED this 13th day of August, 1993, at San Diego, California.