

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. §1324c Proceeding  
 ) Case No. 94C00006  
ZIAGUL ZEKREYA A/K/ )  
A ZIAGUL ZAKRIA )  
A/K/A NASCO AHMADY, )  
Respondent. )  
\_\_\_\_\_ )

ORDER TO SHOW CAUSE

(August 17, 1994)

The complaint in this case was filed in this Office (OCAHO), on January 10, 1994. On January 11, 1994, OCAHO issued a notice of hearing which transmitted a copy of the complaint to Respondent, who received it on January 26, 1994. On February 14, 1994, Respondent, by counsel, filed a timely answer to the complaint.

As confirmed by the Order Scheduling Prehearing Conference, issued March 23, 1994, a telephonic prehearing conference was to be held at 3:30 p.m. on April 5, 1994. As confirmed by the First Prehearing Conference Report and Order issued April 6, 1994, that conference was held as scheduled. At the conference, it was agreed that another conference would be held at 10:00 a.m. on June 20, 1994, absent a prior settlement. At the appointed time, no settlement having been reported by the parties, my legal technician initiated the telephonic conference call; counsel for Respondent was unavailable to participate. Following subsequent unsuccessful efforts to reach Respondent's counsel, I issued an Order to Show Cause (OSC), on June 22, 1994.

On June 29, 1994, Respondent's counsel filed a response to the OSC to the effect that at least certain, but not all, of the efforts to reach him both before and after the scheduled conference were unsuccessful because from time to time my legal technician utilized an erroneous

telephone number. Although the response to the OSC acknowledges that due to his scheduling error counsel failed to appear for the conference, I accept his apology and representations that he intended no disrespect to the forum. Counsel's explanation is accepted; the OSC is satisfied.

Counsel refers also to a pending motion to withdraw premised on reduction in his case load at the direction of his "physicians and counselors," and suggests that Respondent has informed him she has obtained another attorney skilled in the subject at hand in contrast to his limited experience; "it is for this reason, that he seeks permission to withdraw to enable respondent to get experienced counsel to assist her." To date, no such motion to withdraw has been filed by Respondent's counsel. Instead, counsel addressed a letter dated June 17, 1994 to Complainant's counsel enclosing a motion to withdraw, copies of which were forwarded to me by Complainant's counsel, by facsimile transmission on June 21, 1994. No appearance has been entered by substitute counsel for Respondent. No motion to withdraw has been filed by Respondent's counsel. Respondent's representation remains unchanged.

On July 29, 1994, by motion dated July 26, 1994, Complainant filed a Motion to Deem Request for Admissions Admitted. The motion contains a five page request for admissions, with extensive attachments, served by Complainant on counsel for Respondent on March 29, 1994. Respondent has not filed a response to the motion, although more than 15 days has elapsed since the motion was served on July 26, 1994. See 28 C.F.R. §§68.8(c)(2) and 68.11(b).

Respondent at no time requested an extension of time in which to respond to the underlying request for admissions, and no procedural step in this case of which the bench is aware countenanced failure to respond. Respondent is out of time in which to respond to the March 29 request for admissions, the response to which was due by April 30, 1994. See 28 C.F.R. §68.21(b).

Accordingly, this order directs Respondent to show cause, if any, why Complainant's motion should not be granted. Respondent is cautioned that grant of the motion may provide an adequate predicate for judgment in favor of Complainant in event Complainant files an appropriate subsequent motion. In view of the fact that a timely response to the request for admissions was due by April 30, 1994, any suggestion that as of June 17, 1994, counsel for Respondent advised

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counsel for Complainant of his intention to withdraw will not satisfy this Order to Show Cause.

A response to this Order to Show Cause will be timely if filed **not later than August 31, 1994.**

**SO ORDERED.**

Dated and entered this 17th day of August, 1994.

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MARVIN H. MORSE  
Administrative Law Judge