

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

April 30, 2024

ZAJI ZAJRADHARA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2024B00013
JIN JOO CORPORATION,)	
Respondent.)	
_____)	

ORDER TO SHOW CAUSE – JURISDICTION

I. PROCEDURAL HISTORY

This case arises under the employment discrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On October 17, 2023, Complainant, Zaji Obatala Zajradhara, filed a complaint with the Office of the Chief Administrative Officer (OCAHO), alleging that Respondent, Jin Joo Corporation, discriminated against him on the basis of national origin and citizenship status and retaliated against him in violation of 8 U.S.C. § 1324b(a)(1) and (a)(5).

On October 30, 2024, OCAHO sent Respondent a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices (NOCA) and a copy of the Complaint (collectively the Complaint package), via certified U.S. mail. The NOCA directed an answer be filed within 30 days of receipt of the Complaint; failure to answer could lead to default; and proceedings are governed by U.S. Department of Justice regulations.¹

The Complaint package was served on Respondent on November 15, 2023, making Respondent’s answer due no later than December 15, 2023. *See* 28 C.F.R. §§ 68.3(a), 68.9(a). Respondent has not filed an answer.²

¹ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023).

² An answer filed at this juncture would be untimely; however, Respondent is not precluded from submitting an untimely answer with an explanation providing good cause for the delay. *See United States v. Corrales-Hernandez*, 17 OCAHO no. 1454, 3 (2022) (“As to the consideration of untimely filed submissions, the Court employs a standard of good cause in deciding whether to credit a party’s explanations and exercises discretion in accepting a late filing.”).

II. LEGAL STANDARDS

A. Subject Matter Jurisdiction

“Failure of the respondent file an answer within the time provided may be deemed to constitute a waiver of his or her right to appear and contest the allegations of the complaint,” and “[t]he Administrative Law Judge may enter judgment by default.” 28 C.F.R. § 68.9(b).

However, “the Court may not issue a default judgment if the Court lacks subject matter jurisdiction over a complainant’s claims.” *Heath v. VBeyond Corp. and Anon. Emp.*, 14 OCAHO no. 1368a, 2 (2020).³ “OCAHO is a forum of limited jurisdiction ‘with only the jurisdiction which Congress has prescribed.’” *Patel v. USCIS Boston*, 14 OCAHO no. 1353, 2 (2020) (quoting *Wilson v. Harrisburg Sch. Dist.*, 6 OCAHO no. 919, 1167, 1170 (1997)). The Administrative Law Judge has the authority to determine whether OCAHO has jurisdiction over a dispute. *Heath v. F18 Consulting and Anon. Emp.*, 14 OCAHO no. 1365, 2 (2020). The forum “has an independent duty to ensure it only adjudicates matters over which it has subject matter jurisdiction.” *Wangperawong v. Meta Platforms, Inc.*, 18 OCAHO no. 1510b, 2 (2024). “The party invoking jurisdiction has the burden to establish that OCAHO has subject matter jurisdiction.” *Zajradhara v. HDH Co., Ltd.*, 16 OCAHO no. 1417, 2 (2022) (internal citations omitted). OCAHO does not have jurisdiction over national origin claims when an employer has more than fourteen employees. 8 U.S.C. § 1324b(a)(2)(B).

B. Failure to State a Claim

Separate from jurisdictional considerations, a complaint must also state a claim upon which relief can be granted. When this is at issue, 28 C.F.R. § 68.10(b) applies. “The Administrative Law Judge may dismiss the complaint... without a motion from the respondent, if the Administrative Law Judge determines that the complainant has failed to state a claim upon which relief can be granted.” 28 C.F.R. § 68.10(b).

To state a claim for retaliation under § 1324b, a complainant “must show that the respondent took an adverse action to discourage a complainant from activity related to the filing of an IER charge or an OCAHO proceeding, or to interfere with her rights or privileges secured specifically under § 1324b.” *Patel*, 14 OCAHO no. 1353 at 4 (citing *Martinez v. Superior Linen*, 10 OCAHO no. 1180, 7 (2013); *Breda v. Braintree Hosp., LLC*, 10 OCAHO no. 1202, 9 (2013)).

³ 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 been 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 “FIMOCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

III. COMPLAINANT ORDERED TO SHOW CAUSE

Complainant alleges Respondent has at least 15 employees. Compl. 4.⁴ This invariably impacts whether OCAHO has subject matter jurisdiction over Complainant's national origin claim. The Court therefore ORDERS Complainant to submit a filing explaining his position on subject matter jurisdiction and his national origin discrimination claim, due within 30 calendar days of receipt of this Order.

Complainant alleges he has "repeatedly over the years attempted to bring the fact that this Company is no more than a 'fraudulent document mill,' and that "due to these many previous filings this company responded via retaliation." Compl. 7. However, Complainant does not articulate the alleged retaliatory action and its connection to § 1324b. The Court therefore ORDERS Complainant to submit a filing explaining why his retaliation claim under § 1324b(a)(5) should not be dismissed for failure to state a claim upon which relief can be granted, due within 30 days of receipt of this Order.

SO ORDERED.

Dated and entered on April 30, 2024.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

⁴ Citations to the Complaint utilize the PDF pagination.