

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

December 12, 2023

ROBERT PAUL HEATH,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2022B00001
)	
SPRINGSHINE CONSULTING AND)	
ANONYMOUS EMPLOYER,)	
Respondent.)	
_____)	

Appearances: Robert Heath, pro se Complainant
Stephen Madoni, Esq., and Christina Bateman, Esq., for Respondent

AMENDED ORDER DISMISSING PROCEEDINGS

The Court issued an Order in the above-captioned case on November 8, 2023. This Amended Order amends the November 8, 2023, Order, and corrects solely for clerical errors.

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On June 14, 2023, the Court issued a Notice and Order in which the Court took official notice of Complainant’s death and the identity of his personal representative. *Heath v. Springshine Consulting*, 16 OCAHO no. 1421b, 3 (2023);¹ *id.* at 2 (citing in part 28 C.F.R. § 68.41²). The

¹ 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 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 “FIM-OCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

² OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023).

Court also found that Complainant signed a valid settlement agreement with Respondent Springshine Consulting, which included express terms regarding the release of his claims in this case. *See id.* at 3–5 (citations omitted). The Court then advised that dismissal under 28 C.F.R. § 68.14(a)(2) was the appropriate disposition, but being mindful that a dismissal pursuant to § 68.14(a)(2) is a final case disposition, the Court provided notice to the parties of the potential dismissal. *Id.* at 5. The Court then permitted Complainant’s executor fourteen days to advise or comment on the settlement, with an opportunity for Respondent to reply if a submission was provided. *Id.* The Court did not receive a filing from Complainant’s executor by that deadline (June 28, 2023).

On July 10, 2023, this Court issued an order staying the proceedings because it was unable to execute a final case disposition, citing to *A.S. v. Amazon Web Servs., Inc.*, 14 OCAHO no. 1381h, 2 n.4 (2021). *Heath v. Springshine Consulting*, 16 OCAHO no. 1421c, 2 (2023). On October 12, 2023, the Department of Justice published an interim final rule providing for review by the Attorney General of OCAHO Administrative Law Judge (ALJ) final orders in cases arising under 8 U.S.C. § 1324b. *See* Office of the Chief Administrative Hearing Officer, Review Procedures, 88 Fed. Reg. 70586 (Oct. 12, 2023) (codified at 28 C.F.R. pt. 68). The regulation resolved the issue identified in *A.S. v. Amazon Web Servs., Inc.* that led to the stay. As a result of this change to the regulation, this Court may proceed to a final case disposition in this matter. Accordingly, the stay is lifted.

For the reasons cited in the June 14, 2023, order, this case is DISMISSED as to Springshine Consulting due to the settlement agreement. 28 C.F.R. § 68.14(a)(2).

Complaint named “anonymous employer” in his Complaint, but never identified the employer. Complaint, 6. This ALJ has previously found that application of Federal Rule of Civil Procedure 25 (Rule 25), regarding substitution of parties in the event of the death of a party, is appropriate in this forum. *See Heath v. Tringapps, Inc.*, 15 OCAHO no. 1410d, 5 (2022). Per Rule 25, should a party fail to file a motion “within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.” Fed. R. Civ. P. 25(a)(1).

A Court’s determination that Complainant is deceased, along with notice to a party’s successor in interest, trigger the ninety-day window for filing motions for substitution per Rule 25. *Id.* The June 14, 2023, order provided the required notice to Ms. Tonya Heath as Complainant’s executor of these proceedings. Lastly, this Court has determined in a similar case that Mr. Heath’s § 1324b claims survived his death. *See Heath v. Tech Global Sys., Inc.*, 16 OCAHO no. 1419c, 2–3 (2023). Accordingly, the 90-day window for filing motions for substitution pursuant to Rule 25(a)(1), began on June 14, 2023, and closed on September 12, 2023. To date, the Court has not received substitution motions for this case.

As the conditions for dismissal under Rule 25 are present in this case, Mr. Heath's Complaint against the anonymous employer is DISMISSED.

SO ORDERED.

Dated and entered on December 12, 2023.

Honorable Jean C. King
Chief Administrative Law Judge

Appeal Information

This order shall become the final agency order unless modified, vacated, or remanded by the Attorney General. Provisions governing the Attorney General's review of this order are set forth at 28 C.F.R. pt. 68. Within sixty days of the entry of an Administrative Law Judge's final order, the Attorney General may direct the CAHO to refer any final order to the Attorney General for review, pursuant to 28 C.F.R. § 68.55.

Any person aggrieved by the final order has sixty days from the date of entry of the final order to petition for review in the United States Court of Appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business. See 8 U.S.C. § 1324b(i)(1); 28 C.F.R. § 68.57. A petition for review must conform to the requirements of Rule 15 of the Federal Rules of Appellate Procedure.