

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

UNITED STATES OF AMERICA,)
Complainant)
)
v.) 8 U.S.C. 1324a Proceeding
) Case No. 90100297
CHRISTIE AUTOMOTIVE)
PRODUCTS,)
Respondent)
_____)

DENIAL OF RESPONDENT'S REQUEST FOR
ADMINISTRATIVE REVIEW

On September 28, 1990, the United States of America, by and through its agency, the Immigration and Naturalization Service (hereinafter complainant), filed a complaint with the Office of the Chief Administrative Hearing Officer (hereinafter OCAHO) against Christie Automotive Products (hereinafter respondent). The complaint charged the respondent with violations of the employer sanctions provisions of the Immigration Reform and Control Act of 1986 (hereinafter IRCA). Specifically, the complaint alleged that the respondent continued to employ two individuals, knowing that they were unauthorized for employment in the United States in violation of 8 U.S.C. §1324a(a)(2). Also, the complaint alleged that the respondent failed to complete employment eligibility verification forms (Forms I-9) for two individuals in violation of 8 U.S.C. §1324a(b)(1). On October 1, 1990, the OCAHO issued a Notice of Hearing to the parties and assigned the matter to the Honorable E. Milton Frosburg, Administrative Law Judge (hereinafter ALJ). A hearing on the merits was held in Santa Ana, California on March 26, 1991.

On August 5, 1991, the ALJ issued a final decision and order. In his order, the ALJ found respondent violated 8 U.S.C. §1324a(a)(2) for continuing to employ two individuals knowing that they were unauthorized for employment in the United States. The ALJ also found that respondent failed to complete a Form I-9 for one individual in violation of 8 U.S.C. §1324a(a)(1)(B). On September 9, 1991, OCAHO received from respondent a request for administrative review.

Pursuant to the applicable Rules of Practice and Procedure, 28 C.F.R. Section 68.51(a) states that a party has five days from the date of the ALJ's order to request an administrative review. The regulations grant an additional five days, when, as here, a party has been served by mail. See Section 68.7(a). Weekends and holidays are excluded from the tabulation during the first five days. Therefore, the respondent in this case had until August 19, 1991, to file a request for administrative review of the ALJ's order of August 5, 1991.

Under Section 68.7(b), pleadings are not deemed filed until received by the OCAHO. Because the request for administrative review was filed with this office after August 19, 1991, it cannot be considered timely.

Additionally, under 8 U.S.C. §1324a(e)(7), the decision of the ALJ becomes the final agency order within thirty (30) days unless the CAHO modifies or vacates the ALJ's order. In this case, the ALJ's order became the final agency order on September 4, 1991. Under 8 U.S.C. §1324a(e)(8) and 28 C.F.R. §68.51(a)(2), a party adversely affected by a final order may file, within forty-five (45) days after the date of the final agency order, a petition in the Court of Appeals for the appropriate circuit for review of the order.

Therefore, the Chief Administrative Hearing Officer hereby denies the Respondent's request for administrative review.

SO ORDERED THIS 12th day of September, 1991.

JACK E. PERKINS
Chief Administrative Hearing Officer