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

June 14, 1996

MARIA FUENTES, Complainant,	)	
v.	)	8 U.S.C. 1324b Proceeding
	)	OCAHO Case No. 94B00207
GRACE CULINARY SYSTEMS, Respondent.	)	

DECISION AND ORDER

Appearances: Douglas Schoppert, Esquire, Falls Church, Virginia, for complainant;
Frederick H. Burton, Esquire, Cincinnati, Ohio, for respondent.

Before: Administrative Law Judge McGuire

Background

In this proceeding we assess the complaint of Maria Marta Fuentes (complainant) against Grace Culinary Systems, Inc. (respondent), in which she alleges that on May 5, 1994, in the course of determining her work eligibility in connection with the filing of a job application, respondent discriminated against her based upon her national origin, as well as her citizenship status, and also allegedly discriminated against her by having subjected her to document abuse.

Complainant charges that in having done so, respondent violated the immigration-related employment discrimination provisions of

Section 102 of the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. No. 99–603, 100 Stat. 3359 (Nov. 6, 1986), enacted as an amendment to the Immigration and Nationality Act of 1952 (INA), as amended by the Immigration Act of 1990 (IMMACT), Pub. L. No. 101–649, 104 Stat. 4978 (1990), and codified at 8 U.S.C. §1324b.

Complainant seeks damages in the form of back pay for the period from May 5, 1994 until January 1, 1995.

On May 9, 1994, complainant timely filed a charge of discrimination with this Department's Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC). Complainant alleged therein that respondent had discriminated against her based upon her national origin, as well as her citizenship status and that respondent had also refused to honor documents which she had tendered that reasonably had appeared on their face to be genuine, namely, a resident alien card, or "green card". 8 U.S.C. §1324b(a)(6).

By letter dated September 6, 1994, OSC informed complainant that it had not concluded its investigation of her May 9, 1994 charges within the 120-day statutory time frame, that it had therefore not made a determination concerning her allegations, and thus it could not file a complaint with this Office on complainant's behalf within the required 120-day period ending on September 6, 1994. Complainant was further advised that she was entitled to file a complaint directly with this Office, if she did so within 90 days of her receipt of that correspondence.

On December 5, 1994, complainant timely commenced her private action by filing the complaint at issue with this Office, in which she reasserted the same allegations of national origin and citizenship status discrimination, as well as an allegation of document abuse.

On August 24, 1995, following proper notice to the parties, this matter was heard before the undersigned in Falls Church, Virginia.

Summary of Evidence

Complainant's evidence consisted of her testimony and that of Rosa Navas, formerly a project coordinator for the Service Employee Internationals Union, which conducts an immigrant advocacy pro-

ject funded by OSC and which is known as Workplace Justice. In addition, complainant introduced and entered into evidence documents marked as Complainant's Exhibits 1, 2 and 3.

Respondent's evidence was comprised of the testimony of four (4) witnesses, Alazne Gandarias Solis, respondent's personnel administrator; Norma Mejia, respondent's personnel assistant; Cheryl Ann Ali, another employee of respondent who formerly worked in respondent's personnel office; and Sonya Newell, an employee of AccuStaff, who testified as an expert concerning the present employment conditions in the Laurel, Maryland area. In addition, respondent introduced and entered into evidence seven (7) documents marked as Respondent's Exhibits A through G.

By way of background, and before summarizing these disputed facts, it might be well to describe the operations of respondent's business and its method of hiring new employees. The respondent is a wholly-owned subsidiary of W.R. Grace & Co., which employs over 27,000 individuals world-wide. Respondent prepares frozen food products for sale in the restaurant and retail food industry, and at all times relative to this dispute employed over 280 workers at its sole manufacturing plant located in Laurel, Maryland. It also operates a warehouse in nearby Baltimore. Its Laurel production facility operates 24 hours a day in three shifts and approximately 90% of its workforce is comprised of Hispanics who are not U.S. citizens.

Ms. Solis, respondent's personnel administrator and the person responsible for handling all aspects of human resources and personnel matters, described respondent's labor needs and hiring practices at the plant. Because of the large number of unskilled, entry level production workers employed turnover is generally high, forcing respondent to continually seek new employees. In this regard, Ms. Solis testified that the company receives referrals from various organizations such as the Hispanic Community Center, temporary organizations and job services, in addition to receiving referrals from current and prior employees. The wage for new hires is $5.50 or $5.75 per hour depending upon the work assignment.

She also stated that prospective employees routinely come to her office daily without appointments in order to seek employment. These walk-ins are often given informal information about the company and the types of positions available and are also allowed to complete an application even when no positions are available. And it

is not uncommon to hire an individual on the same day. The respondent's practice is not to ask for documents to satisfy employment eligibility forms (Forms I–9) until such time as a position becomes available. Nevertheless, documents are often volunteered by prospective employees and accepted by her in order to facilitate and hasten the hiring process. Ms. Solis testified that she has hired hundreds of individuals over the past two (2) years.

Turning now to the events leading to the immediate controversy, complainant testified that she came to the United States from El Salvador in October, 1982, and that on October 2, 1991, some nine (9) year later, she became a lawful permanent resident alien.

Complainant testified that in late April or early May of 1994 she learned of a job opening from a friend, Albertina Villatoro, who was then employed at respondent's Laurel plant. Complainant went to the plant and obtained a job application, which she subsequently completed at her home.

On Thursday May 5, 1994, complainant returned to the plant with her completed job application and asked to see the personnel manager, Alazne Gandarias Solis, about a possible opening. Ms. Solis personally accepted the application in her second floor office. Norma Mejia, another of respondent's personnel assistants, was also present in the office on that date.

Complainant testified that Ms. Solis had requested that she provide work eligibility documents and that she handed to Ms. Solis a Salvadoran passport, a resident alien card, and a Social Security card. Complainant also stated that after examining those documents Ms. Solis started shouting at her and accused her of purchasing her resident alien card. She also testified that she tried to explain to Ms. Solis that she had lost her resident alien card and the one which she presented was a newly-issued card. Ms. Solis then asked a coworker, Cheryl Ann Ali, who preceded Ms. Solis as personnel administrator, to come to her office and inspect complainant's resident alien card. Ms. Ali inspected the resident alien card and also thought that it was not a valid card. However, another of respondent's employees, Norma Mejia, who was also present, inspected Ms. Fuentes' resident alien card and considered it valid.

According to complainant, Ms. Solis then collected her documents and left the room to make photocopies of them. She stated that be-

fore leaving the room Ms. Solis said she was going to call the INS. She also testified that upon returning Ms. Solis again repeated that she was going to telephone the INS.

Complainant testified that she told Ms. Solis to "go ahead, call the INS, I insist" (T. 58) and that respondent's actions were discriminatory. Complainant then gathered her documents and left the building, allegedly in an agitated state.

After returning home, complainant called The Hispanic Community Center, which referred her to another center closer to her home. On or about May 8, 1994, some three (3) days later, complainant went to that community center and was referred to and met with Rosa Navas, then the project coordinator at Workplace Justice.

At that May 8, 1994 meeting, Ms. Navas called respondent's Ms. Solis to discuss the events of May 5, 1994. During that telephone conversation, respondent offered to interview complainant for a position and Ms. Navas suggested that complainant return to Ms. Solis' office for an interview. But complainant refused to return because Ms. Solis had treated her like "a criminal or something." (T. 47). On the following day, Monday, May 9, 1994, complainant filed her complaint with OSC.

On cross-examination, complainant testified that from May 5, 1994 until she secured employment as a housekeeper on or about January 1, 1995, she attempted to find other employment, but that she did not file any job applications over that eight (8)-month period. Complainant's sworn answers to interrogatories disclose that complainant's job search consisted of discussions with "Maria Villatoro, current address unknown, and an individual named Ramona whose sirname [sic], Complainant does not recall [and] [h]er current address, it is not known."

Respondent's evidence began with the testimony of Norma Mejia, a five (5)-year employee who currently holds the position of personnel assistant. Ms. Mejia was present during complainant's visit to Ms. Solis' office on May 5, 1994.

She testified that complainant was told by Ms. Solis that there were no jobs then currently available and that Ms. Solis had not requested any documentation from complainant. She also stated that complainant voluntarily furnished her resident alien card to Ms. Solis, which the latter considered not to have been genuine. In Ms.

Mejia's opinion, however, the card was genuine. She recalls that Ms. Ali was called to the office and also inspected the resident alien card and also felt that it was counterfeit. Complainant had given the explanation that she had lost her resident alien card and had acquired a new one. At the conclusion of the meeting, which lasted perhaps ten minutes or so, complainant asked for a business card and said "you are going to hear about me later." (T. 80). Ms. Mejia also testified that it was not ordinary or customary for the respondent to request and look at work eligibility papers if there were no job vacancies.

Respondent's next witness, Cheryl Ann Ali, preceded Ms. Solis as personnel administrator and held that position for two (2) years. In May 1994, she was performing other duties at respondent's firm. While acting previously as personnel administrator, she had occasion to see and examine approximately 200 resident alien cards. She testified that Ms. Solis sought her advice concerning the validity of complainant's resident alien card. Ms. Ali concurred with Ms. Solis's assessment that it was not genuine, primarily because the shading on the card did not appear to be proper. She recalled having seen a resident alien card similar to the one complainant volunteered on only two other occasions.

On cross-examination, Ms. Ali testified that complainant was upset that she and Ms. Solis had questioned the genuineness of her resident alien card. Without knowing the status of complainant's application or whether an offer of employment had been made, she told Ms. Solis to let complainant "[f]ill out the paperwork, get her card and let her work." She also remembers that photocopies were made of the documents which complainant had furnished.

Respondent's next witness, Ali Gandarias Solis, was respondent's personnel administrator at the time of the events at issue. She recalls that on May 5, 1994, complainant came to her office without an appointment to inquire about employment. Complainant had with her a completed work application and work eligibility documentation. Ms. Solis informed her that there were no vacancies.

She also testified that she had not asked to see complainant's documents and that complainant had voluntarily furnished them. Ms. Solis inspected complainant's resident alien card and "realized it looked different from any that I had seen before." (T. 106). She also stated that she was unable to find a likeness of it among the specimens in the Form I–9 Handbook. As a consequence, she did not believe it was genuine. Since she was in her position only a few

months, she sought the advice and opinion of her predecessor, Cheryl Ann Ali, who also agreed with her that complainant's resident alien card did not appear genuine.

She stated that she photocopied the documents and placed them in complainant's file. In the meantime, she mentioned to complainant that she would check with the INS to establish whether the resident alien card was genuine and that in the event that the resident alien card was valid, she would call complainant for an interview if a position became available.

A few days after complainant's visit, Ms. Solis said she received a phone call from Ms. Navas, of Workplace Justice, who informed her that she had in effect discriminated against complainant. She replied by saying she did not intend to discriminate, and that if it had occurred, she "would be happy to have Ms. Fuentes come back for an interview." (T. 116). Ms. Navas related this offer to complainant, who declined Ms. Solis' offer of an immediate job interview.

Respondent's final witness, Sonya Newell, testified as an expert relating to the availability of employment for unskilled workers in the Maryland localities of Laurel, Savage, Columbia, and Jessup, all of which are located near respondent's plant. She is employed as an office manager for AccuStaff, a full service staffing company that supplies workers in various job categories to several firms, including those in warehouse and light industrial settings.

Ms. Newell testified during the period in question there were many jobs available for an unskilled person with limited English, such as complainant, who were willing to work any hours or shifts and that those jobs paid $5.50 an hour and above. She also testified that her company had been unable to find sufficient numbers of workers to meet the demand in that geographical market and that it was not uncommon for someone to come to her office, complete an application, and begin work within an hour. She also stated that during the relevant time period a person with complainant's work qualifications would have been able to obtain steady work in entry level settings.

Issues

These disputed facts present three (3) issues for consideration, as well as one other contingently. Initially, it must be determined whether respondent violated the unfair immigration-related employ-

ment practices of IRCA, as set forth at 8 U.S.C. §1324b(a)(1)(A), based solely on complainant's national origin. Next, it must also be determined whether, as complainant has alleged, respondent violated the unfair immigration-related employment practices provisions of IRCA, as set forth at 8 U.S.C. §1324b(a)(1)(B), based upon her citizenship status. Finally, it must be determined whether, as complainant has also charged, respondent violated the unfair immigration-related employment practices provisions of IRCA, as set forth at 8 U.S.C. §1324b(a)(6), by having requested and then having refused to honor documents tendered by her which were facially acceptable.

In the event that rulings are made in complainant's favor on any of these three (3) issues, further consideration will be granted to claimant's claim for back wages from Thursday, May 5, 1994 to January 1, 1995, the date upon which she stated she resumed employment.

Alternatively, if rulings in respondent's favor are entered on all of these issues, consideration must be given to respondent's request that, as the prevailing party, it be awarded reasonable attorneys' fees.

Discussions, Findings, and Conclusions

Before proceeding, it must be determined whether there is subject matter jurisdiction over these claims. Claims based upon national origin discrimination may be entertained by this office only in the event that the employer involved employs more than three (3) and less than 15 persons. 8 U.S.C. §1324b(a)(2)(B); *Yefremov v. New York City Dep't of Transp.,* 3 OCAHO 466 (10/23/92); *Curuta v. U.S. Water Conservation Lab,* 3 OCAHO 459, at 6 (9/24/92); *Adepitan v. United States Postal Serv*., 3 OCAHO 416, at 6; *Salazar-Castro v. Cincinnati Public Schools,* 3 OCAHO 406, at 5 (2/26/92). In the event it is determined that respondent employs more than 14 employees, complainant must bring her national origin discrimination action against respondent before the Equal Employment Opportunity Commission (EEOC), under the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq. (1982) (Title VII).

In it's answer to complainant's charge, respondent advised that at the time of the alleged discrimination on May 5, 1994, respondent employed more than 14 employees. (Respondent's Fifth Affirmative

Defense). Respondent's personnel administrator also testified that respondent employs "approximately 280 to 300" workers at its Laurel plant (T. 100).

Accordingly, this office lacks subject matter jurisdiction over complainant's claims of discrimination based upon national origin, 8 U.S.C. §1324b(a)(1)(A), and that portion of the complaint alleging discrimination based upon national origin is ordered to be and is hereby dismissed.

With respect to complainant's allegations of discrimination based upon her citizenship status, this Office does not have subject matter jurisdiction over citizenship status discrimination claims brought by those who are not within the class of "protected individuals," as that term is defined in 8 U.S.C. §1324b(a)(3). Included within the definition of protected individuals are aliens lawfully admitted for permanent residence in the United States.

Complainant has established that at all times relevant her status was that of permanent resident alien and she is therefore a protected individual for purposes of IRCA. Accordingly, complainant, as a permanent resident alien of the United States since October 2, 1991, is a protected individual and has standing to maintain an action based upon her citizenship status, 8 U.S.C. §1324b(a)(3)(B).

When viewing complainant's allegations as a charge of citizenship status discrimination, rather than one based upon national origin, it is found that complainant has failed to meet her evidentiary burden of proving that she was discriminated against on that ground. That evidentiary burden consists of demonstrating by a preponderance of the evidence that respondent knowingly and intentionally engaged in the discriminatory practices which she has alleged. *See* 8 U.S.C. §1324b(g)(2)(A).

More specifically, in order to prevail complainant must demonstrate by a preponderance of the evidence that respondent knowingly and intentionally refused to hire her as a food production worker based solely upon her citizenship status.

And that burden of proof equates to that which is required in a claim of discrimination under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, *et seq.* (Title VII). *Yefremov v. NYC Dep't of Transp.*, 3 OCAHO 562 (1993); *Hensel v. Oklahoma City Veterans*

Affairs Medical Ctr., 3 OCAHO 532 (1993); *Alvarez v. Interstate Highway Constr.,* 3 OCAHO 430 (1992); *Huang v. Queens Motel*, 2 OCAHO 364 (1991); *Williams v. Lucas & Assoc.,* 2 OCAHO 537 (1991).

Pursuant to Title VII guidelines, a complainant may establish liability for an alleged discriminatory practice in either of two (2) ways. First, under a disparate treatment theory, complainant must show that she was knowingly and intentionally treated less favorably than other job applicants similarly situated and she must also prove that respondent had a discriminatory intent or motive. *Watson v. Fort Worth Bank and Trust*, 487 U.S. 977, 986 (1988). The second method for establishing Title VII liability involves the disparate impact theory, which requires that complainant demonstrate that discrimination resulted from an employer's practices, that although being facially neutral, nevertheless created significant adverse effects on a protected group. Under this theory a complainant need not prove intentional discrimination on the part of the employer. *Watson,* 487 U.S. at 986–87.

All claims brought under IRCA, 8 U.S.C. §1324b, must be proven according to a disparate treatment theory of discrimination, which requires evidence of knowing and intentional discrimination. *See, e.g., Yefremov v. NYC Dep't of Transp.,* 3 OCAHO 562, at 21–23 (1993). Accordingly, in order for complainant to prevail she must prove her allegations by a preponderance of the evidence that respondent knowingly and intentionally treated her differently than other applicants and did so based solely upon her citizenship status.

Because complainant has alleged disparate treatment, namely, that she was knowingly and intentionally treated less favorably than other applicants similarly situated based solely upon her citizenship status, it is appropriate to examine the applicable case law, particularly the seminal United States Supreme Court decision in *McDonnell Douglas Corp. v. Green,* 411 U.S. 792 (1973).

In that refusal-to-hire ruling, the Supreme Court defined the order and allocation of proof required in Title VII cases dealing with disparate treatment. The Court announced that the plaintiff therein was required to establish a prima facie case of discrimination and was further required to prove by a preponderance of the evidence:

> (i) that he belongs to a racial minority; (ii) that he applied and was qualified for a job for which the employer was seeking applicants; (iii) that, despite his qual-

ifications, he was rejected; and (iv) that, after his rejection, the position remained open and the employer continued to seek applicants from persons of complainant's qualification.

McDonnell Douglas, 411 U.S. at 802.

Upon a showing of a prima facie case of discrimination by a preponderance of the evidence, an inference of discrimination arises and imposes upon the defendant a burden of rebuttal which respondent successfully assumes by articulating with specificity a legitimate, non-discriminatory reason for not having hired plaintiff. Given that showing, the plaintiff then has the opportunity to prove, once more by a preponderance of the evidence, that the legitimate reasons offered by the defendant were not its true reasons for not having hired plaintiff, but instead were a pretext for intentionally discriminating against plaintiff. *Texas Department of Community Affairs v. Burdine*, 450 U.S. 248, 249 (1981).

In order for complainant to prevail under IRCA, she must produce evidence of a prima facie case of citizenship status discrimination concerning respondent's failure to hire her. The elements of that prima facie case require complainant to demonstrate: (1) that she belonged to a class of persons protected by the provisions of IRCA; (2) that she applied and was qualified for the position of food production worker for which respondent was seeking applicants; (3) that, despite her qualifications, she was rejected; and (4) that, after her rejection, the position remained open and that respondent continued to seek applicants from persons of complainant's qualifications. *McDonnell Douglas*, 411 U.S., at 802.

As noted previously, complainant may, in either of two (2) ways, establish respondent's alleged discriminatory practices, those of having knowingly and intentionally having treated her differently, or disparately, than other job applicants in the course of having failed to hire her for the position of food production worker based solely upon her citizenship status.

Complainant can offer indirect, or circumstantial, proof of such discrimination, *Texas Department of Community Affairs v. Burdine*, *supra; McDonnell Douglas Corp. v. Green, supra*, or he may provide direct evidence of such proscribed conduct. *Price Waterhouse v. Hopkins,* 490 U.S. 228 (1986); *Trans World Airlines v. Thurston*, 469 U.S. 111 (1985).

Should complainant's evidence disclose indirect evidence of discrimination, and thus establish a prima facie case, the burden of production then shifts to respondent to articulate a legitimate reason for its refusal to hire her. Should respondent carry that burden, complainant will then have the opportunity to prove that the reasons articulated by respondent are a mere pretext for discrimination. *See McDonnell Douglas*, 411 U.S. at 807; *Burdine,* 450 U.S. at 248. Moreover, "[t]he ultimate burden of persuading the trier of the fact that the defendant intentionally discriminated against the plaintiff remains at all times with the plaintiff." *Burdine*, 450 U.S. at 253.

By the use of the foregoing recognized evidentiary parameters, we would ordinarily analyze complainant's charges in the light of those facts which the moving party's evidence has adduced in order to have placed upon the evidentiary record a sufficiency of credible facts to establish a prima facie case.

However, it is patently self-evident that in order to prevail in her charge of citizenship status discrimination complainant must show that at all times relevant respondent was seeking to fill a current job opening in connection with hiring or recruitment for employment. This she has failed to do inasmuch as she testified that she did not know whether there were any job openings at respondent's plant on May 5, 1994. And two (2) of respondent's witnesses, Ms. Solis and Ms. Mejia, testified that there were in fact no job openings on that date. Therefore, this evidentiary shortcoming entitles respondent to a favorable ruling on that allegation.

And the same conclusion must be reached in ruling upon complainant's final allegation that respondent had refused to honor documents tendered that on their face reasonably appeared to be genuine, in violation of the document abuse provisions of IRCA. 8 U.S.C. §1324b(a)(6). In order to prove such allegation, it is quite elemental that complainant must show, by a preponderance of the evidence, that respondent had in fact requested that she furnish work eligibility documents.

A review of the following relevant facts on this evidentiary record clearly discloses that complainant has also quite clearly failed to meet her burden of proof on that element as well.

Sometime in late April or early May 1994, complainant learned from a friend that respondent might have a job opening in its food

production facility in Laurel, Maryland. According to complainant's testimony, she then went to respondent's plant to obtain an application and later returned on May 5, 1994, to submit the completed application and also to learn whether there were any job openings.

Complainant testified that on May 5, 1994, she asked to see and met with respondent's personnel administrator, Ms. Solis. At that meeting, complainant alleges that Ms. Solis took her application and requested her documents. Complainant provided no other evidence to support her charge that respondent had requested such documents from her. On the contrary, respondent has shown persuasively through the testimony of its witnesses that there were no job openings on Thursday, May 5, 1994, that no documents had been demanded or requested, and that the complainant tendered the work eligibility documents voluntarily.

Even in the event that complainant had shown that respondent requested her documents, complainant has failed to establish that her resident alien card reasonably appeared to be genuine or that respondent had refused to accept that card. Ms. Solis testified that she had seen "thousands" of resident alien cards during her employment as respondent's personnel administrator, and she did not believe that complainant's resident alien card was genuine based upon her experience and knowledge. To confirm her belief, Ms. Solis sought the opinion of Cheryl Ann Ali, the former personnel administrator, who was also of the view that the resident alien card was not genuine. Under these facts, it was not unreasonable for respondent to have questioned the genuineness of complainant's resident alien card.

It is indisputable that respondent simply was not hiring on May 4, 1994 and that respondent nonetheless accepted complainant's resident alien card and photocopied it to facilitate the hiring process in the event a job opening became available and complainant had been invited back for an interview. In fact, on May 8, 1994, complainant was invited to return to Ms. Solis' office for an interview, but declined that offer, based upon her belief that she had been mistreated.

In view of the foregoing, it is found that respondent did not subject complainant to document abuse in the hiring process, as she has alleged.

Since respondent is the prevailing party in this proceeding, consideration of respondent's request for attorney's fees is in order.

Simply because it has been shown that complainant has failed to prove the immigration-related employment discrimination, that finding does not support a further finding that complainant's case was so devoid of substantive merit that fee shifting should be ordered. The Supreme Court has held that a court may in its discretion award attorney's fees to a prevailing defendant in a Title VII case upon a finding that the plaintiff's action was frivolous, unreasonable, or without foundation, even though not brought in subjective bad faith. *Christiansburg Garment Co. v. EEOC,* 434 U.S. 412, 98 S. Ct. 694, 16 F.E.P. 502 (1978).

While there are many shortcomings in complainant's assertions that she suffered proscribed acts of discrimination based upon her national origin and her citizenship status, and that she was also the victim of document abuse, it is found that she has not been shown to have instituted these charges without a reasonable basis in law and fact. Accordingly, respondent's request that it be awarded reasonable attorneys' fees is being denied.

Order

Complainant's December 5, 1994 complaint, alleging discrimination based on national origin and citizenship status in violation of the provisions of 8 U.S.C. §1324b(a)(1)(A) and (B), and in violation of the document abuse provision of 8 U.S.C. §1324b(a)(6), is hereby ordered to be dismissed.

JOSEPH E. MCGUIRE
Administrative Law Judge

Appeal Information

In accordance with the provisions of 8 U.S.C. §1324b(g)(1), this Order shall become final upon issuance and service upon the parties, unless, as provided for under the provisions of 8 U.S.C. §1324b(i), any person aggrieved by such Order seeks a timely review of this Order 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, and does so no later than 60 days after the entry of this Order.