

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
(September 8, 1994)

By Order to Show Cause issued August 17, 1994, I directed Respondent's counsel to explain why failure to respond to Complainant's March 1994 request for admissions should not be deemed as admitted for default of any response, as sought by Complainant's unanswered motion of July 26, 1994. The Order also referred to the suggestion, which had not ripened into an appropriate motion, by counsel for Respondent for leave to withdraw from the case.

By Response to Order to Show Cause, filed August 29, 1994, Respondent's counsel recites that he "is in the process of withdrawing" from the case, that Respondent has retained another attorney, identified as Kathleen M. Curley, to represent her, and "prays that the time for responding to the Request for Admissions be enlarged to allow new counsel to enter an appearance for Respondent and respond to the Request for Admissions." Concurrently, counsel filed a Motion to Withdraw which recites candid, good and sufficient reasons for allowing his withdrawal, i.e., medical advice to recede from "many pending matters due to a stress and anxiety disorder," and because he is "not experienced in immigration matters and cannot provide the Respondent the representation she needs in this matter."

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On September 1, 1994, Respondent, by Kathleen M. Curley, Esquire (Curley), filed a request that former counsel's motion to withdraw be granted, and that Curley be substituted as Respondent's counsel. Concurrently, Curley filed a Request to enlarge the time in which to answer the Request for Admissions by enlarging the time for response to the Order to Show Cause to September 14, 1994. By letter transmitting the filings, Curley expresses confidence that she can respond to Complainant's motion within two weeks, "and possibly settle this matter."

Grant of the motion to withdraw is in contrast to cases where withdrawal of counsel is denied because service of process on parties "is ineffective or otherwise frustrated." U.S. v. Flores-Martinez, 4 OCAHO 647 (6/15/94) at 3 (Order), and cases cited; Flores-Martinez, OCAHO Case No. 94C00032 (8/26/94) (Order Denying Motion of Counsel to Withdraw) at 2-3.

This Order

(a) confirms that my office responded to a September 1, 1994 telephonic inquiry by Curley to the effect that the request for enlargement of time is granted to respond to the Order to Show Cause and to explain failure to have timely responded to the Request for Admissions; the requested enlargement of time is granted and,

(b) grants the motion of former counsel to withdraw, substituting Curley as Respondent's counsel.

SO ORDERED.

Dated and entered this 8th day of September, 1994.

MARVIN H. MORSE
Administrative Law Judge