



**In the Matter of**

**MOHAMMED SHAIKH,**

**ARB CASE NO. 04-094**

**COMPLAINANT,**

**ALJ CASE NO. 2004-LCA-0005**

**DATE: July 27, 2005**

**v.**

**VISION SYSTEMS GROUP, INC.,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**Appearances:**

*For the Complainant:*

*Mohammed Shaikh, pro se, Hayward, California*

*For the Respondent:*

*Sheetal A. Patel, Esq., Gary S. Pasricha, Esq., Pasricha & Associates, LLC,  
Woodbridge, New Jersey*

**FINAL DECISION AND ORDER DISMISSING COMPLAINT WITH  
PREJUDICE**

This case arose when the Complainant, Mohammed Shaikh, an H-1B non-immigrant worker, filed a complaint under the Immigration and Nationality Act (INA)<sup>1</sup> and its interpretive regulations<sup>2</sup> alleging that the Respondent, Vision Systems Group, Inc., failed to pay him his full wages under the terms of a Labor Certification Application. A Department of Labor Administrative Law Judge issued a Decision and Order on April 1, 2004, finding that because Shaikh terminated his employment with Vision Systems Group on April 19, 2001, Vision Systems owed him no additional wages. Decision and Order at 9.

---

<sup>1</sup> 8 U.S.C.A. § 1182(n) (West 1999).

<sup>2</sup> 20 C.F.R. Part 655, Subparts H and I (2004).

Shaikh filed a timely petition for review with the Administrative Review Board<sup>3</sup> and the Board issued a Notice of Intention to Review.<sup>4</sup> On August 9, 2004, Vision Systems filed a letter with the Board in which its counsel stated that Shaikh had decided to withdraw his request for review in this matter and attached a letter from Shaikh, expressing his intent to discontinue his pursuit of the case and withdrawing his claim and his appeal. Nevertheless, on August 12, 2004, Shaikh filed a rebuttal brief with the Board disavowing his intention to withdraw his complaint. On September 14, 2004, Vision Systems filed a copy of a Release and Settlement Agreement dated August 3, 2004, in which Shaikh and Vision Systems agreed to settle both an action Vision Systems had filed against Shaikh in Bergen County, New Jersey Superior Court and this case before the Department of Labor. Under the settlement, Shaikh agreed to withdraw his complaint before the Labor Department with prejudice.

On November 11, 2004, Vision Systems filed a copy of an Order Enforcing Settlement in *Vision Systems Group, Inc. v. Shaikh*, Docket No. BER-L-000002-03 (Sup. Ct. of N.J. Law Div.: Bergen Cty Oct. 22, 2004) with the Board. This Order provides:

**IT IS** on this 22nd day of October 2004:

**ORDERED** that the settlement on the above-referenced matter be and is hereby enforced; and it is further

**ORDERED** that the defendant Mohammed Shaikh shall and is hereby directed to withdraw in writing with a copy to plaintiffs' counsel his U.S. Department of Labor appeal entitled in the *Matter of Mohammed Shaikh v. Vision Systems Group, Inc.*, ARB Case No. 04-094 and ALJ Case No. 2004-LCA-0005 within three days (3) days from the date hereof . . . .

On January 18, 2005, the Board issued an Order requiring Shaikh to show cause why the Board should not dismiss his complaint in compliance with the court's order. Shaikh responded that the enforcement order was based on an incorrect understanding of the facts and that he intended to appeal it. On April 15, 2005, Vision Systems filed a motion with the Superior Court to issue a warrant for Shaikh's arrest for his failure to comply with the court's enforcement order.

---

<sup>3</sup> The Administrative Review Board has jurisdiction to review an administrative law judge's decision. 8 U.S.C.A. § 1182(n)(2); 20 C.F.R. § 655.845. *See also* Secretary's Order No. 1-2002, 67 Fed. Reg. 64,272 (Oct. 17, 2002) (delegating to the ARB the Secretary's authority to review cases arising under, inter alia, the INA).

<sup>4</sup> 20 C.F.R. § 655.845(e).

On May 20, 2005, Shaikh filed a letter with the Board in which he stated, “I hereby withdraw my appeal against Vision Systems Group Inc. **without** prejudice.” (Emphasis added.). We note that the settlement that the Superior Court has ordered enforced provides for withdrawal of the Department of Labor action **with** prejudice. Accordingly, we **DISMISS** this complaint **WITH PREJUDICE**.

**SO ORDERED.**

**M. CYNTHIA DOUGLASS**  
**Chief Administrative Appeals Judge**

**OLIVER M. TRANSUE**  
**Administrative Appeals Judge**