



IN THE MATTER OF:

MAKARAND BIDWAI,

ARB CASE NO. 12-072

PROSECUTING PARTY,

ALJ CASE NO. 2011-LCA-029

v.

DATE: October 17, 2012

BOARD OF EDUCATION OF PRINCE
GEORGE'S COUNTY,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Makarand Bidwai, *pro se*, Alexandria, Virginia

For the Respondent:

Mary E. Pivec, *Williams Mullen*, Washington, District of Columbia

Before: Paul M. Igasaki, *Chief Administrative Appeals Judge*; Joanne Royce, *Administrative Appeals Judge*; and Lisa Wilson Edwards, *Administrative Appeals Judge*

ORDER DENYING COMPLAINANT'S "MOTION TO REINSTATE THE COMPLAINT, ACCEPT ARB'S U VISA SUPPLEMENT B JURISDICTION, AND ISSUE A REVISED BRIEFING SCHEDULE, OR ALTERNATE MOTION TO REINSTATE THE COMPLAINT, REJECT ARB'S U VISA SUPPLEMENT B JURISDICTION WITH CERTIFICATION, AND HOLD THE PROCEEDINGS IN ABEYANCE TO ENABLE AN INTERLOCUTORY [sic] APPEAL IN THE US COURTS AND MOTION TO RECUSE THE ARB AND THE GENERAL COUNSEL"

The Administrative Review Board issued a Final Decision and Order Dismissing Appeal in this case arising under the H-1 B provisions of the Immigration and Nationality Act, as amended,¹ on October 11, 2012. The Board dismissed the Complainant's appeal because, after the Board gave him ample opportunities to file his opening brief and clearly warned him of the serious consequences of failing to file his brief as ordered, the Complainant refused to do so.²

In response, the Complainant has filed a "Motion to Reinstate the Complaint, Accept ARB's U Visa Supplement B Jurisdiction, and Issue a Revised Briefing Schedule, or Alternate Motion to Reinstate the Complaint, Reject ARB's U Visa Supplement B Jurisdiction with Certification, and Hold the Proceedings in Abeyance to Enable an Interlocutory [sic] Appeal in the US Courts and Motion to Recuse the ARB and the General Counsel." We will treat these motions as a motion for reconsideration of our Final Decision and Order Dismissing Appeal and a Motion to Recuse.

The ARB is authorized to reconsider a decision upon the filing of a motion for reconsideration within a reasonable time of the date on which the Board issued the decision.³ Upon review of the Complainant's motion, we have determined that he has failed to demonstrate any grounds for reconsideration.⁴ Accordingly, we **DENY** the Complainant's motion for reconsideration.

We have also reviewed the Complainant's arguments in support of his motion to recuse the ARB and the General Counsel. We find that the Complainant has failed to raise allegations that indicate either actual bias or the appearance of such bias.⁵ Accordingly, we **DENY**, the Complainant's motion for recusal.

If the Complainant remains dissatisfied with the Board's Final Order in his case, he should address any further arguments on appeal to the appropriate United States

¹ 8 U.S.C.A §§ 1101(a)(15)(H)(i)(b), 1182(n), 1184(c) (West 1999 & Thomson Reuters Supp. 2012) (INA). The Secretary of Labor has delegated her authority to issue final agency decisions in cases arising under the INA's H-1B provisions to the Administrative Review Board. *See* Secretary's Order No. 1-2010, 75 Fed. Reg. 3,924-25 (Jan. 15, 2010).

² *Bidwai v. Board of Education of Prince George's Cty.*, ARB No. 12-072, ALJ No. 2011-LCA-029, slip op. at 3-4 (Oct. 11, 2012).

³ *Henrich v. Ecolab, Inc.*, ARB No. 05-030, ALJ No. 2004-SOX-051, slip op. at 11 (ARB May 30, 2007).

⁴ *See Abdur-Rahman v. DeKalb County*, ARB Nos. 08-003, 10-074; ALJ Nos. 2006-WPC-002, -003; slip op. at 4 (ARB Feb. 16, 2011).

⁵ *See In the Matter of the Qualifications of: Edward A. Slavin*, ARB No. 04-172, slip op. at 4-5 (Oct. 20, 2004). *Accord Matthews v. Ametek, Inc.*, ARB No. 11-036, ALJ No. 2009-SOX-026, slip op. at 4-5 (ARB May 31, 2012)(discussing standards for consideration of motion to recuse an administrative law judge).

District Court, which has review authority over final agency action under the INA's H-1B visa program.⁶

SO ORDERED.

PAUL M. IGASAKI
Chief Administrative Appeals Judge

JOANNE ROYCE
Administrative Appeals Judge

LISA WILSON EDWARDS
Administrative Appeals Judge

⁶ 20 C.F.R. § 655.850 (2012).