



IN THE MATTER OF:

MAKARAND BIDWAI,

ARB CASE NO. 12-072

PROSECUTING PARTY,

ALJ CASE NO. 2011-LCA-029

v.

DATE: November 5, 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

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 WEIGH IN EN BANC ON THE ISSUE OF PROSECUTING PARTY'S INTERIM IMMIGRATION STATUS AS HIS STATUTORY RIGHT WITH AN EMBEDDED MOTION TO RECONSIDER THE ARB'S COMPLAINT DISMISSAL ORDER OF OCTOBER 11, 2012 AND ITS RECONSIDERATION OF OCTOBER 17, 2012"

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 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." 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 On October 17, 2012, the Board issued an Order denying Complainant's motion for reconsideration because he failed to demonstrate any grounds for reconsideration,⁴ and we denied his recusal motion on the grounds that he failed to raise allegations that indicate either actual bias or the appearance of such bias.⁵ The Board further notified the Complainant that if he remained dissatisfied with the Board's Final Order in his case, he should address any further arguments on appeal to the appropriate United States District Court, which has review authority over final agency action under the INA's H-1B visa program.⁶

Ignoring the Board's instruction that any further arguments should be addressed to the appropriate district court, the Complainant has filed a second motion for

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).

⁶ 20 C.F.R. § 655.850 (2012).

reconsideration. We **DENY** this motion. The Board will not entertain any further motions for reconsideration from the Complainant. Furthermore, we will not permit the Complainant to file any additional motions of any kind unless the Complainant requests, in writing, and receives permission in advance of filing, from the Board to file such motions.

The Board also **DENIES** the Complainant's Motion for En Banc consideration.

SO ORDERED.

PAUL M. IGASAKI
Chief Administrative Appeals Judge

JOANNE ROYCE
Administrative Appeals Judge

LISA WILSON EDWARDS
Administrative Appeals Judge