

**NOT PRECEDENTIAL**

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

NO. 05-1738

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SHONALI TAHILIANI,

Petitioner

v.

\*BAYER MATERIALSCIENCE LLC,

Respondent

\*Amended pursuant to 6/6/05 order.

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On Petition for Review of an Order  
of the Office of the Chief Administrative Hearing Officer  
on January 13, 2005  
(Agency No. 04B00060)

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Submitted Under Third Circuit LAR 34.1(a)  
February 8, 2006

Before: BARRY, STAPLETON AND GREENBERG, CIRCUIT JUDGES

(Filed February 9, 2006)

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OPINION

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PER CURIAM

Shonali Tahiliani petitions for review of an order of the Office of the Chief Administrative Hearing Officer (OCAHO), dismissing her complaint alleging immigration-related unfair employment practices in violation of the Immigration and Nationality Act (INA), 8 U.S.C. § 1324b, because it was not timely filed. We have jurisdiction pursuant to 8 U.S.C. § 1324b(i)(1).

Tahiliani's complaint was based on events during her employment at Bayer Polymers Division; from which she resigned in June of 2002. Tahiliani filed her complaint with the Office of Special Counsel for Immigration-Related Unfair Employment Practice (OSC) on February 17, 2004. Pursuant to § 1324b(d)(3), "no complaint may be filed respecting any unfair immigration-related employment practice occurring more than 180 days prior to the date of the filing of the charge with the Special Counsel." The OSC dismissed her charge on June 3, 2004, finding that it was filed more than 180 days from when any alleged unfair immigration-related employment practice occurred. Tahiliani appealed to the OCAHO, and Bayer filed a motion to dismiss, arguing that the complaint was untimely. The OCAHO noted that the period in which to file a complaint was subject to equitable tolling, and gave Tahiliani an opportunity to provide any materials that would support a claim for equitable relief. When she failed to do so, the OCAHO properly dismissed her charge as untimely.<sup>1</sup> We therefore will deny

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<sup>1</sup> Tahiliani has similarly failed to address the timeliness issue in her brief on appeal.

the petition for review.<sup>2</sup>

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<sup>2</sup> Although we agree that her complaint was untimely, we also agree with Bayer's alternative arguments that Tahiliani's complaint was barred because Bayer has more than 15 employees; see 8 U.S.C. § 1324b(a)(2)(B); and because she had previously filed charges based on the same facts with the Equal Employment Opportunity Commission; see § 1324b(b)(2).