

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LIEN LE POLIZZI,

Plaintiff,

v.

U.S. DEPT. OF HOMELAND
SECURITY U.S. CITIZENSHIP
AND IMMIGRATION SERVICES,
Milwaukee, WI,

Defendant.

ORDER

06-C-038-C

This is a civil action in which plaintiff Lien Le Polizzi petitions pursuant to 8 U.S.C. § 1421(c) for review of an October 5, 2005 decision of the District Director of the United States Department of Homeland Security denying her application for naturalization. On April 10, 2006, defendant filed a “Motion to Dismiss and/or Motion for Summary Judgment. . . .” In support of its motion, defendant submitted evidence to show that plaintiff’s application was denied properly because she has been convicted of an aggravated felony and thus cannot establish good moral character, which is a necessary qualification for citizenship. In an order dated April 13, 2006, I advised the parties that I intended to rely on defendant’s evidence in support of the motion and, for that reason, would treat the

motion as a motion for summary judgment. I gave defendant until May 3, 2006, in which to serve and file proposed findings of fact in support of its motion as required by this court's Procedures to be followed on Motions for Summary Judgment, a copy of which was sent to the parties with the order. In addition, I gave plaintiff until May 31, 2006, in which to oppose the motion.

Now, plaintiff has filed a letter dated May 9, 2006, which I construe as a motion for an enlargement of time in which to oppose defendant's motion. In her motion, plaintiff states that she is applying to Governor James Doyle for a pardon of her conviction in an effort to overcome the "aggravated" character of her conviction. She believes that if she is successful in obtaining the pardon, she will be able to show that defendant's denial of her application is unwarranted.

Plaintiff is mistaken about the effect a potential pardon will have on this case. If she obtains a pardon from Governor Doyle, she will not succeed in proving that defendant violated her rights under the Immigration Act as she alleges in her complaint. Instead, the controversy detailed in her complaint will be mooted. Plaintiff would be free to reapply for naturalization unencumbered by her previous conviction. In any event, plaintiff does not suggest that her application for a pardon will be acted upon anytime soon, and I am unwilling to allow this case to lie idle for an indeterminate period while her application is pending. Plaintiff must respond to defendant's motion for summary judgment by May 31, 2006. If she fails to do so, I will accept defendant's proposed findings of fact as undisputed

and decide the motion on the basis of those proposed facts.

ORDER

IT IS ORDERED that plaintiff's motion for an enlargement of time in which to oppose defendant's motion for summary judgment is DENIED.

Entered this 17th day of May, 2006.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge