

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

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FILOMINA C. STEADY,

Plaintiff,

v.

U.S. IMMIGRATION AND  
NATURALIZATION SERVICE,<sup>1</sup>

Defendant.

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ORDER

02-C-683-C

Plaintiff Filomina Steady is a United States resident who applied for naturalization. Plaintiff alleges that defendant Immigration and Naturalization Service denied her application when she failed to attend a hearing in June 2002. She requests the court to order defendant to provide her with another interview.

This court's jurisdiction to hear cases concerning immigration and naturalization is limited. When an application for naturalization is denied and the applicant seeks review of that decision, the applicant must first request a hearing a before an immigration officer. 8

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<sup>1</sup>Plaintiff's complaint names both "U.S. Immigration and Naturalization Service" and "Brian R. Perryman" as defendants. However, under 8 C.F.R. § 336.9(b), the only proper defendant in a case of this kind is the INS. I have amended the caption accordingly.

U.S.C. § 1446(a). An applicant may seek review in a district court only if the denial is upheld after the hearing. 8 U.S.C. § 1421(c). Before that time, a district court is without subject matter jurisdiction to review the denial. Aparicio v. Blakeway, 302 F.3d 437, 447 (5th Cir. 2002); Chavez v. INS, 844 F. Supp. 1224 (N.D. Ill. 1993).

In her complaint, plaintiff alleges that she filed this lawsuit after receiving a letter from defendant stating that her application had been denied. She does not allege that she requested a hearing before an immigration officer as required by 8 U.S.C. §§ 1421(c) and 1447(a). As a result, I cannot exercise jurisdiction over this case. Plaintiff may have until January 15, 2003, in which to submit information in writing to the court showing that she has exhausted her administrative remedies with the INS. If plaintiff does not respond by then, I will assume that she has not exhausted her administrative remedies and I will dismiss this case for lack of subject matter jurisdiction.

#### ORDER

IT IS ORDERED that plaintiff Filomina Steady may have until January 15, 2003, in which to submit to the court in writing information showing that she has requested a hearing with an immigration officer and that, after the hearing, the decision to deny plaintiff's application for naturalization was denied. If, by January 15, 2003, plaintiff has failed to respond, I will assume that plaintiff has not exhausted her administrative remedies and I will

dismiss this case for lack of subject matter jurisdiction.

Entered this 31st day of December, 2002.

BY THE COURT:

BARBARA B. CRABB  
District Judge