

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MICHIGAN

Potris v. Secretary of Department of Homeland Security

161 F. Supp. 3d 534 (E.D. Mich. 2015) · Decided December 18, 2015

SUMMARY

The court adopted the magistrate judge’s report and recommendation and denied Raheel Behnam Potris’s application for attorney fees, costs, and other expenses under the Equal Access to Justice Act. The court held that Potris was not a prevailing party because the stipulated order remanding her naturalization application to USCIS was neither a judgment on the merits nor a consent decree, and lacked the necessary judicial imprimatur. The court also concluded that her non-prevailing-party status defeated her request for litigation costs.

CASE DETAILS

COURT	United States District Court for the Eastern District of Michigan
WRITING FOR THE COURT	Paul D. Borman
JURISDICTION	Michigan
DECIDED	December 18, 2015
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff sought attorney fees, filing costs, and certified-mail expenses under the Equal Access to Justice Act after the district court entered a stipulated order remanding her naturalization application to USCIS for adjudication within twenty-one days. The magistrate judge recommended denial, and the district judge adopted the recommendation without timely objections.
STANDARD OF REVIEW	The district judge reviewed the magistrate judge’s report and recommendation under 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), with no timely objections filed.
PRECEDENTIAL VALUE	Published federal district court opinion
PARTIES	Raheel Behnam Potris v. Secretary of Department of Homeland Security

TOPICS

naturalization

immigration

attorney fees

administrative procedure act

judicial review of agency action

PRACTICE AREAS

Immigration

Administrative Law

Civil Procedure

Attorney Fees and Costs

QUESTIONS PRESENTED

1. Whether a plaintiff who obtains a stipulated remand requiring USCIS to adjudicate a naturalization application within a specified period is a prevailing party under the EAJA.
2. Whether the stipulated remand order was a judgment on the merits or a consent decree providing the judicial imprimatur necessary for prevailing-party status.
3. Whether the plaintiff could recover filing fees and certified-mail costs under the EAJA absent prevailing-party status.

HOLDINGS

1. Potris was not a prevailing party because the stipulated remand order did not grant substantive relief on the merits or materially alter the legal relationship between the parties.
2. Potris could not recover attorney fees under the EAJA because prevailing-party status is a threshold requirement, and she did not satisfy it.
3. Potris could not recover the requested filing fees and certified-mail costs because recovery under 28 U.S.C. § 2412(a)(1) also requires prevailing-party status.

KEY QUOTATIONS

“The ‘catalyst theory’ refers to ‘[a] defendant’s voluntary change in conduct, [which] although perhaps accomplishing what the plaintiff sought to achieve by the lawsuit, lacks the necessary judicial imprimatur on the change.’” (at 539)

“A consent decree is essentially a settlement agreement subject to continued judicial policing.” (at 542)

“Thus, the stipulated consent order does not have the necessary or sufficient judicial imprimatur to render Plaintiff a ‘prevailing party’ as contemplated by the EAJA.” (at 543)

FACTUAL BACKGROUND

Potris became a lawful permanent resident in 2008 and filed a naturalization application in November 2012. Although she was interviewed in February 2013, her case remained in USCIS's Fraud Detection and National Security unit for approximately a year, and her fingerprints later had to be renewed. She filed suit in April 2015 alleging that USCIS had exceeded the 120-day adjudication period. Following the filing of the action, the parties stipulated to remand for adjudication within twenty-one days, USCIS approved the application the next day, and Potris was naturalized in July 2015.

PROCEDURAL HISTORY

Potris filed a petition under 8 U.S.C. § 1447(b), alleging that USCIS had failed to adjudicate her naturalization application within the statutory 120-day period and seeking naturalization, attorney fees, or remand. The parties stipulated to a remand order requiring USCIS to adjudicate the application within twenty-one days, while

preserving fees and costs. USCIS approved the application the next day, and Potris was later naturalized. The magistrate judge recommended denying EAJA fees and costs because Potris was not a prevailing party; the district court adopted that recommendation and denied the application.

DISPOSITION

other

CASES CITED

- Tri-State Steel Construction Co., Inc. v. Herman, 164 F.3d 973 (6th Cir. 1999)
- Glenn v. Commissioner of Social Security, 763 F.3d 494 (6th Cir. 2014)
- DeLong v. Commissioner of Social Security Administration, 748 F.3d 723 (6th Cir. 2014)
- Ardestani v. I.N.S., 502 U.S. 129 (1991)
- Buckhannon Board & Care Home, Inc. v. West Virginia Department of Health & Human Resources, 532 U.S. 598 (2001)
- Harper Plastics, Inc. v. Amoco Chemicals Corp., 657 F.2d 939 (7th Cir. 1981)
- F & L Drug Corp. v. American Central Insurance Co., 200 F. Supp. 718 (D. Conn. 1961)
- Cooter & Gell v. Hartmarx Corp., 496 U.S. 384 (1990)
- United States v. Armour & Co., 402 U.S. 673 (1971)
- Lorain NAACP v. Lorain Board of Education, 979 F.2d 1141 (6th Cir. 1992)
- Williams v. Vukovich, 720 F.2d 909 (6th Cir. 1983)
- Vulcan, Inc. v. Fordees Corp., 658 F.2d 1106 (8th Cir. 1981)
- Pedreira v. Sunrise Children's Services, Inc., 802 F.3d 865 (6th Cir. 2015)
- Kokkonen v. Guardian Life Insurance Co. of America, 511 U.S. 375 (1994)
- Marshall v. Commissioner of Social Security, 444 F.3d 837 (6th Cir. 2006)
- Almudallal v. USCIS, No. 3:07-cv-2040, 2008 WL 1995360 (N.D. Ohio May 5, 2008)
- Al-Maleki v. Holder, 558 F.3d 1200 (10th Cir. 2009)
- Aronov v. Napolitano, 562 F.3d 84 (1st Cir. 2009)
- Othman v. Chertoff, 309 Fed. App'x 792 (5th Cir. 2008)
- Shalala v. Schaefer, 509 U.S. 292 (1993)
- Turner v. Commissioner of Social Security, 680 F.3d 721 (6th Cir. 2012)
- Thomas v. Arn, 474 U.S. 140 (1985)
- Howard v. Secretary of Health & Human Services, 932 F.2d 505 (6th Cir. 1991)
- Willis v. Secretary of Health & Human Services, 931 F.2d 390 (6th Cir. 1991)
- Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370 (6th Cir. 1987)

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