

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 08-11515
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT AUGUST 12, 2008 THOMAS K. KAHN CLERK
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D. C. Docket No. 07-00247-CV-4-RS-MD

IN THE MATTER OF CORAZON RAMOS MILLER,

Plaintiff-Appellant,

versus

MICHAEL B. MUKASEY, U.S. Attorney General,
MICHAEL CHERTOFF, Secretary of Department of Homeland Security,
EMILIO T. GONZALEZ, Director United States Citizenship and Immigration,
LOUISE GERMAINE, Field Office Director – USCIS Jacksonville

Defendant-Appellees.

Appeal from the United States District Court
for the Northern District of Florida

(August 12, 2008)

Before ANDERSON, HULL and HILL, Circuit Judges.

PER CURIAM:

Corazon Ramos Miller filed a petition to correct her date of birth on her certificate of naturalization in the district court, which thereafter granted the government's motion to dismiss for failure to exhaust her administrative remedies. Ms. Miller does not argue on appeal that she exhausted her administrative remedies. Rather, she contends that she should be excused from exhaustion because it is futile, citing language from the relevant regulation that changing the date of birth will not be deemed to be justified where, at the time of naturalization, the naturalized person stated that the date of birth on her certificate was correct. The government, however, points out that Ms. Miller contends that her former boyfriend provided her date of birth to immigration officials. The government argues that there is a "viable possibility" that Ms. Miller could obtain administrative relief for her claim, and that, therefore, she must exhaust her administrative remedy before coming to this court.

We agree with the government. The USCIS must be given the opportunity to interpret its own regulations before we do so. Accordingly, the judgment of dismissal by the district court is due to be

AFFIRMED.