

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Alle Guisse,
Plaintiff

vs

Bureau of Citizenship and Immigration
Services,
Defendant

Case No. 1:08cv833
(Dlott, J.)
(Hogan, M.J.)

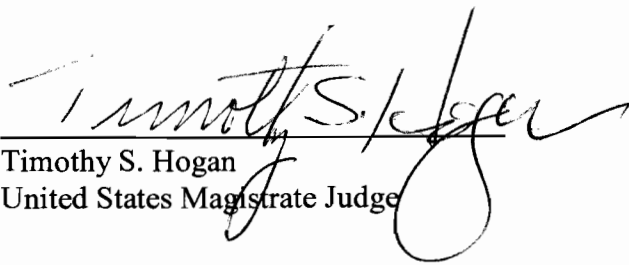
REPORT AND RECOMMENDATION

Plaintiff filed this action pro se seeking to appeal the denial by the USCIS of his Application for Adjustment of Status. (Doc. 3). On January 20, 2010, the Court issued an Order to Show Cause why Plaintiff's Complaint should not be dismissed for failure to properly serve the Defendant in this matter. (Doc. 10). On January 22, 2010, summonses were issued in accordance with Federal Rule of Civil Procedure 4(i). (Doc. 12). Plaintiff also filed a Response to the Court's Show Cause Order on January 22, 2010, wherein he states that he has not yet received a decision by the Immigration Judge regarding his appeal. (See Doc. 11). Thus, it appears Plaintiff's Complaint has been filed prematurely.

Additionally, the Court notes that judicial review of removal decisions is limited to the courts of appeals. 8 U.S.C. § 1252(b)(2); *Sanusi v. Gonzales*, 474 F.3d 341, 345 (6th Cir. 2007); see also *Juncay v. Holder*, 316 Fed. Appx. 473, 478 (6th Cir. March 16, 2009); 8 U.S.C. § 1252(a)(5) ("Notwithstanding any other provision of law . . . a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of an order of removal entered or issued under any provision of this chapter. . ."). Because we find that Plaintiff's Complaint is premature, we find that a transfer to the Sixth Circuit Court of Appeals would be inappropriate. Therefore, as this District Court is without jurisdiction to review decisions by the Board of Immigration Appeals, we hereby **RECOMMEND THAT** Plaintiff's Complaint be dismissed and this case be **TERMINATED** upon the Court's docket.

Date:

2/4/10


Timothy S. Hogan
United States Magistrate Judge

**NOTICE TO THE PARTIES REGARDING THE FILING
OF OBJECTIONS TO THIS R&R**

Pursuant to Fed. R. Civ. P. 72(b), within fourteen (14) days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen (14) days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).

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