

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

WENDY ALISON NORA,

Appellant,

v.

RESIDENTIAL FUNDING
COMPANY, LLC,

Appellee.

ORDER

10-cv-68-bbc

Appellant Wendy Alison Nora has filed a motion under Fed. R. Civ. P. 60(b), seeking reconsideration of the order dismissing her bankruptcy appeal and denying her a disability accommodation. She bases her motion on subsection (2) of Rule 60(b), asserting that she has newly discovered evidence that she could not have found in time to move for a new trial under Fed. R. Civ. P. 59(b). This evidence consists of a report of a thoracic spine imaging that shows appellant to have some disc protrusion in her thoracic spine for which physical therapy is recommended. In addition, appellant attaches what appears to be a copy of an executive order on the subject of increasing federal government employment of persons with disabilities.

Relying on these documents, appellant argues that now that she has evidence that it was her spinal abnormalities that have been causing her pain and not her fibromyalgia, she has demonstrated good cause for additional continuances. However, she adds that the new medical evidence is still not fully developed.

Appellant seems to think that the court denied her request for more time because it did not believe that her fibromyalgia was a serious impediment to her work, but she is wrong. Her request was denied because despite extensions of time adding up to 76 days, she had filed nothing in support of her bankruptcy appeal and showed no sign of being able to file at any future time. Certainly, she gave no indication in her April 27, 2010 request for more time that she would ever be able to brief her appeal. Even now, she says nothing about when she might be able to file a brief in support of her appeal. It does not appear that she has done anything in that regard since she received her first continuance immediately upon filing her appeal in late February.

As unfortunate as it is for appellant that she remains in physical distress, the interests of the appellee and the public cannot be ignored. It would be unfair to appellee to reopen this case and ask it to wait an indefinite period of time for appellant's brief in support of her appeal.

Nothing in President Obama's executive order requires a different decision in this case; it relates to federal employment matters and not to cases pending in federal court.

ORDER

IT IS ORDERED that appellant Wendy Alison Nora's Rule 60(b) motion for reconsideration and motion to vacate the order dismissing her appeal is DENIED.

Entered this 12th day of August, 2010.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge