

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

DUC MINH NGUYEN,

Plaintiff,

v.

Case No: 6:24-cv-308-JSS-RMN

ALEJANDRO MAYORKAS, UR M.
JADDOU, MICHAEL J. MCCLEARY
and UNITED STATES CITIZENSHIP
AND IMMIGRATION SERVICES,

Defendants.

_____ /

ORDER

Defendants move to remand this matter to the United States Citizenship and Immigration Services (USCIS) pursuant to 8 U.S.C. § 1447(b) for adjudication of Plaintiff's Form N-400, Application for Naturalization (Application). (Motion, Dkt. 10.) Plaintiff does not oppose the Motion. For the reasons explained below, Defendants' Motion (Dkt. 10) is granted.

Plaintiff commenced this action requesting a hearing on the Application due to Defendants' alleged failure to timely adjudicate the Application. Pursuant to 8 U.S.C. § 1447(b), an applicant can petition the district court if a decision is not made on the applicant's application within 120-days after the applicant's examination. The district court has jurisdiction to either make a determination on the application or remand the application to USCIS, "with appropriate instructions[.]" *Id.* In cases where a determination has not been made by either an immigration judge or the Board of

Immigration Appeals, the appropriate action is for the district court to remand the application. *Sanchez Jimenez v. U.S. Att’y Gen.*, 492 F.3d 1223, 1236 (11th Cir. 2007) (citations omitted); *see also I.N.S. v. Orlando Ventura*, 537 U.S. 12, 17 (2002) (“The agency can bring its expertise to bear upon the matter; it can evaluate the evidence; [and] it can make an initial determination[.]”). The court can then review USCIS’s decision to determine whether USCIS exceeded “the leeway that the law provides.” *Orlando Ventura*, 537 U.S. at 17. Here, USCIS has not made a determination on Plaintiff’s Application and remand of Plaintiff’s Application is therefore appropriate.

Accordingly:

1. Defendants’ Unopposed Motion to Remand to USCIS (Dkt. 10) is **GRANTED**.
2. This matter is **REMANDED** to USCIS with instructions to adjudicate Plaintiff’s Application within 60 days of this order.
3. Within 60 days of adjudication of Plaintiff’s Application, the parties shall file a joint stipulation of dismissal or joint motion for the court to re-open the case and enter a scheduling order.
4. The Clerk of Court is directed to close this case and deny all pending motions as moot.

ORDERED in Orlando, Florida, on April 8, 2024.



JULIE S. SNEED
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record