

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

ELLA M. SAMUEL,

Plaintiff,

v.

JESSICA TRAME,

Defendant.

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Case No. 15-cv-780-NJR-SCW

**RESPONSE TO DEFENDANT’S MOTION TO STAY BRIEFING AND
CONSIDERATION OF PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT**

Comes now Ella M. Samuel, by and through her attorneys, and states as follows:

1. Plaintiff does not object to granting Defendant an additional 30 days to respond to Plaintiff’s Summary Judgment Motion. However, any further delay on the part of Defendant should not be allowed in this case as the *material* issues presented are almost exclusively legal issues, and those few issues that are not *legal* issues, are either admitted in pleadings or request to admit responses, immaterial, irrelevant, available for answer with the resources already under the control of Defendant or outside the scope of the pleadings, or some combination thereof.
2. Second, Defendant implies that Plaintiff filed her summary judgment motion prematurely. However, under Rule 56(b) unless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment at any time until 30 days after the close of all discovery. No local rule changes the general rule in this Court. Plaintiff only filed her motion after Defendant filed her answer. The motion is timely.

3. As to Plaintiff's status with the Air Force, Defendant has already been presented with Plaintiff's military ID in initial disclosures, along with Plaintiff's Montana driver's license. Presumably, the Illinois State Police has the capacity to determine rather quickly whether these are forgeries, whether Plaintiff has an Illinois drivers license (she does not) or the like. There is a large building in Springfield, Illinois, full of people that do this for a living, and to think that it has not already been done stretches the imagination beyond the breaking point.
4. As far as criminal history goes, (a) it is irrelevant, as Plaintiff does not seek to compel the actual issuance of a concealed carry license, rather, Plaintiff simply seeks to have the ability to *apply for*, and *have processed*, the application, the same as the residents of Illinois and four other states, if there were any disqualifying factors (such as being a prohibited person under 18 USC 922(g)), Defendant would remain free to disapprove the application, and (b) a "FTIP analyst" in the Illinois State Police Firearms Services Bureau can literally review a background as a matter of routine transaction nearly instantly. (Ex, A, p. 16). Thus, if Plaintiff did have any sort of disqualifying conviction, the Illinois Firearms Services Bureau could determine that almost instantly, and certainly does not need to engage in discovery simply to have Plaintiff re-state she has no criminal record, especially when the Defendant has not set forth any legitimate basis to indicate that she might.
5. As far as a fee arrangement goes, this is no reason to delay ruling on the summary judgment, as the motion itself does not seek payment of fees, the time for that would be an Attorney Fee Petition filed *after* Plaintiff were to win the motion. Such a fee petition has not been filed yet. Defendant remains free to send appropriate discovery on the topic,

none of which would even be relevant unless and until Plaintiff actually wins the summary judgment motion. In any event, the fact that Plaintiff is entitled to fees and costs under 42 U.S.C. 1988, if she wins this case, is no reason to delay a ruling on whether or not Plaintiff wins this case. In the event that she does, and Defendant feels it needs more discovery to respond to the fee petition, the Court can take up that issue at that time, when it matters.

6. In sum, there is no material discovery, relevant to the pending summary judgment motion, that Defendant needs to respond to the pending summary judgment motion. Any such claim of the need to conduct discovery on matters well within the actual knowledge, or the ability to easily determine by Defendant, is merely an excuse to delay the inevitable. This Court should not take the invitation.

WHEREFORE, Plaintiff Humbly requests that this Court deny Defendant's Motion to Stay Briefing and Consideration of Plaintiff's Motion for Summary Judgment, and order that Defendant respond, if at all, to the motion, on or before October 21, 2015.

Dated: September 22, 2015

Respectfully Submitted,
Ella M. Samuel

By: s/Thomas G. Maag

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed, on this date, using the CM/ECF system, which will sent notification to the following:

Bilal Aziz

Dated: 9-22-2015

s/Thomas G. Maag