

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Bozorgkhoo v. Blinken

Bozorgkhoo · No. 2:24-cv-03154 CSK · Decided May 19, 2025

SUMMARY

The United States District Court for the Eastern District of California grants Defendants’ alternative motion for summary judgment in an action seeking to compel adjudication of delayed immigrant visa applications. The court holds that visa refusals under INA § 221(g) for administrative processing were not final decisions subject to consular non-reviewability. Applying the TRAC factors, the court concludes that the 14- to 19-month delays were not unreasonable under applicable case law.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 19, 2025
DOCKET	2:24-cv-03154 CSK
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs sought mandamus and injunctive relief compelling adjudication of pending immigrant-visa applications. Defendants moved to dismiss under Federal Rule of Civil Procedure 12(b)(6) or, alternatively, for summary judgment under Rule 56. The court granted the alternative motion for summary judgment and dismissed the remaining APA claims.
STANDARD OF REVIEW	For Rule 12(b)(6), the court accepts well-pleaded allegations as true and construes them in the light most favorable to plaintiffs. For summary judgment, judgment is proper when there is no genuine dispute of material fact and the movant is entitled to judgment as a matter of law; the evidence and reasonable inferences are viewed in the nonmovant's favor. APA unreasonable-delay claims are evaluated under the six TRAC factors.
PRECEDENTIAL VALUE	nonprecedential

PARTIES

Sakineh Bozorgkhoo, et al. v. Anthony J. Blinken, et al.

TOPICS

visa petitions

consular processing

administrative procedure act

agency adjudication

summary judgment

PRACTICE AREAS

immigration

administrative law

civil procedure

remedies

foreign affairs

QUESTIONS PRESENTED

1. Whether consular non-reviewability barred judicial review of visa applications refused under INA § 221(g) while additional documents and administrative processing remained pending.
2. Whether the delay in adjudicating plaintiffs' immigrant-visa applications was unreasonable under APA § 706(1).
3. Whether plaintiffs could obtain relief under the Mandamus Act for the alleged visa-adjudication delay.
4. Whether plaintiffs stated cognizable APA § 706(2) claims without identifying a final agency action to set aside.
5. Whether the absence of the U.S.-citizen petitioner for one family group required dismissal for lack of standing or failure to join an indispensable party.

HOLDINGS

1. The doctrine of consular non-reviewability did not apply because, accepting the allegations as true, the § 221(g) refusals accompanied by requests for additional documents and administrative processing were not final decisions.
2. The 14-to-19-month delays were not unreasonable under the applicable caselaw and the six TRAC factors, so defendants were entitled to summary judgment on the unreasonable-delay claim.
3. The Mandamus Act claim failed because plaintiffs had an adequate remedy under the APA, and the APA unreasonable-delay claim failed.
4. Plaintiffs' APA § 706(2) claims were subject to dismissal because they did not identify a final agency action for the court to set aside.
5. The absence of the U.S.-citizen petitioner did not require dismissal because the nonresident alien plaintiffs could establish standing to challenge unreasonable delay, and the government conceded that the petitioner was not indispensable.

KEY QUOTATIONS

“Here, accepting all allegations as true and drawing all inferences in the light most favorable to Plaintiffs, the denial of Plaintiffs’ visa applications under INA § 221(g) is not a final decision, and the doctrine of consular non-reviewability does not apply.” (at 7)

“Having considered the TRAC factors, the Court finds that the 14 to 19 month delays at the time the complaint was filed are not unreasonable under applicable caselaw.” (at 15)

“Similarly, here, Plaintiffs have not specified a final agency action to set aside under § 706(2).” (at 16)

FACTUAL BACKGROUND

The remaining plaintiffs were Iranian nationals whose family-based immigrant-visa applications had been approved or processed through the National Visa Center and whose applications were interviewed at the U.S. Embassy in Abu Dhabi. Farshad Bozorgkhoo was interviewed on April 10, 2023, and the applications of Pedram Mohanna, his spouse Asieh, and their children were interviewed on August 22, 2023; each application was refused under INA § 221(g) pending additional documents and administrative processing. When the complaint was filed, the applications had remained without final adjudication for more than 19 months and more than 14 months, respectively.

PROCEDURAL HISTORY

Plaintiffs filed the action on November 12, 2024, alleging unreasonable delay and related APA violations concerning immigrant-visa applications placed in administrative processing under INA § 221(g), and seeking relief under the Mandamus Act. Seven of the thirteen original plaintiffs voluntarily dismissed their claims after receiving visas. Following briefing, an April 1, 2025 hearing, and supplemental briefing concerning the absence of a U.S.-citizen plaintiff for one family group, the court granted defendants' motion and directed entry of judgment for defendants.

DISPOSITION

other

CASES CITED

- *Balistreri v. Pacifica Police Department*, 901 F.2d 696, 699 (9th Cir. 1990)
- *Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984)
- *Love v. United States*, 915 F.2d 1242, 1245 (9th Cir. 1990)
- *Lee v. City of Los Angeles*, 250 F.3d 668, 688-89 (9th Cir. 2001)
- *City of Pomona v. SQM North America Corp.*, 750 F.3d 1036, 1049 (9th Cir. 2014)
- *In re Oracle Corp. Securities Litigation*, 627 F.3d 376, 387 (9th Cir. 2010)
- *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986)
- *Vaz v. Neal*, 33 F.4th 1131, 1135-39 (9th Cir. 2022)
- *Plaskett v. Wormuth*, 18 F.4th 1072, 1082 (9th Cir. 2021)
- *Oregon Natural Resources Council v. Harrell*, 52 F.3d 1499, 1508 (9th Cir. 1995)
- *Fallini v. Hodel*, 783 F.2d 1343, 1345 (9th Cir. 1986)
- *Independent Mining Co. v. Babbitt*, 105 F.3d 502, 507 (9th Cir. 1997)
- *Khachatryan v. Blinken*, 4 F.4th 841, 851 (9th Cir. 2021)

- Department of State v. Munoz, 602 U.S. 899, 907-08 (2024)
- Trump v. Hawaii, 585 U.S. 667, 702 (2018)
- Jamalina v. Rubio, 2025 WL 744861, at *4-6 (E.D. Cal. Mar. 7, 2025)
- Iqbal v. Blinken, 2024 WL 3904959, at *7, *10 (E.D. Cal. Aug. 22, 2024)
- Ali v. Ordeman, 2024 WL 2274912, at *4-7 (E.D. Cal. May 17, 2024)
- Al Shaleli v. Blinken, 2022 WL 4664245, at *3 (E.D. Cal. Sept. 30, 2022)
- Khan v. Johnson, 65 F. Supp. 3d 918, 926 (C.D. Cal. 2014)
- In re National Resources Defense Council, Inc., 956 F.3d 1134, 1138-39 (9th Cir. 2020)
- Telecommunications Research and Action Center v. FCC, 750 F.2d 70, 79-80 (D.C. Cir. 1984)
- Vietnam Veterans of America v. Central Intelligence Agency, 811 F.3d 1068, 1075-76 (9th Cir. 2016)
- In re A Community Voice, 878 F.3d 779, 786 (9th Cir. 2017)
- Poursohi v. Blinken, 2021 WL 5331446, at *4, *8-11 (N.D. Cal. Nov. 16, 2021)
- Sarlak v. Pompeo, 2020 WL 3082018, at *6 (D.D.C. June 10, 2020)
- Khushnood v. U.S. Citizenship and Immigration Services, 2022 WL 407152, at *4 (D.D.C. Feb. 10, 2022)
- El Centro Regional Medical Center v. Blinken, 2021 WL 3141205, at *4 (S.D. Cal. July 23, 2021)
- Yang v. California Department of Social Services, 183 F.3d 953, 958 (9th Cir. 1999)
- Akrayi v. U.S. Department of State, 2023 WL 2424600, at *4 (D.D.C. Mar. 9, 2023)
- Jain v. Renaud, 2021 WL 2458356, at *6 (N.D. Cal. June 16, 2021)
- Kassem v. Blinken, 2021 WL 4356052, at *3 (E.D. Cal. Sept. 24, 2021)
- Mahonak v. Rubio, 2025 WL 449044, at *13 (C.D. Cal. Feb. 10, 2025)
- EEOC v. Peabody Western Coal Co., 610 F.3d 1070, 1078 (9th Cir. 2010)
- Infracost v. Blinken, 732 F. Supp. 3d 1240, 1250-51, 1254-55 (S.D. Cal. Apr. 30, 2024)
- Rashidian v. Garland, 2024 WL 1076810, at *9 n.8 (D.D.C. Mar. 8, 2024)
- Alam v. Blinken, 2024 WL 4804557, at *6 (E.D. Cal. Nov. 15, 2024)
- Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986)