

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Nijati Maimaitiyiming v. Merrick Garland

Nijati Maimaitiyiming v. Garland, No. 8:24-cv-02001-ODW (ADSx) (C.D. Cal. Apr. 9, 2025) · No. 8:24-cv-02001-ODW (ADSx) · Decided April 9, 2025

SUMMARY

The United States District Court for the Central District of California partially granted and partially denied defendants’ motion to dismiss an action seeking to compel USCIS to adjudicate an asylum application. The court held that it had jurisdiction over the plaintiff’s APA unreasonable-delay claim, but dismissed any claim under 5 U.S.C. § 706(2) and dismissed the Mandamus Act claim because the APA provided an adequate remedy. The court also dismissed the request for EAJA fees and costs as premature, without prejudice, and directed defendants to answer the remaining APA claim.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Otis D. Wright, II
JURISDICTION	United States District Court for the Central District of California
DECIDED	April 9, 2025
DOCKET	8:24-cv-02001-ODW (ADSx)
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved to dismiss an action seeking to compel USCIS to schedule an asylum interview and adjudicate an asylum application, under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).
STANDARD OF REVIEW	On a Rule 12(b)(1) motion, the plaintiff bears the burden of establishing jurisdiction; a facial jurisdictional attack accepts the truth of the allegations, while a factual attack contests them. On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true and asks whether the complaint states a plausible claim for relief.
PRECEDENTIAL VALUE	unpublished_nonprecedential

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QUESTIONS PRESENTED

1. Whether the INA's bar on a private right of action to enforce asylum-processing time requirements deprived the district court of subject matter jurisdiction over an APA claim challenging unreasonable delay.
2. Whether the plaintiff alleged a reviewable discrete agency action despite USCIS's statutory discretion to delay action in exceptional circumstances.
3. Whether the complaint stated an APA claim under 5 U.S.C. § 706(1) for unreasonable delay.
4. Whether an unreasonable-delay claim could proceed under 5 U.S.C. § 706(2) absent a final agency action.
5. Whether the plaintiff stated a Mandamus Act claim when the APA provided an adequate remedy.
6. Whether the request for EAJA attorney fees and costs was premature.

HOLDINGS

1. The INA's prohibition on a private right of action to enforce the timing requirements in 8 U.S.C. § 1158(d)(5)(A) does not strip the district court of jurisdiction over an APA claim challenging unreasonable agency delay rather than seeking enforcement of those statutory deadlines.
2. USCIS's duty to schedule an asylum interview and adjudicate the application is a discrete and mandatory agency duty reviewable under APA § 706(1), notwithstanding discretion to delay in exceptional circumstances.
3. An unreasonable-delay claim based on agency inaction must proceed under APA § 706(1), not § 706(2), because § 706(2) addresses setting aside final agency action and the plaintiff alleged no final agency action.
4. The complaint plausibly alleged unreasonable delay under APA § 706(1) and survived Rule 12(b)(6) dismissal.
5. The Mandamus Act claim was properly dismissed because the surviving APA claim supplied an adequate remedy.

KEY QUOTATIONS

“Thus, while Maimaitiyiming has no private right of action to enforce the time requirements set forth in § 1158(d)(5)(A), the Court possesses jurisdiction to hear his claims under the APA.” (at 3)

“Although USCIS has some discretion to delay an interview or adjudication of an asylum application under “exceptional circumstances,” that does not negate the discrete and mandatory nature of USCIS’s duty to

schedule the interview and to adjudicate the application.” (at 3)

“Viewing these facts in the light most favorable to Maimaitiyiming, the Court finds the allegations raise a plausible inference that the delay is unreasonable and declines to apply the TRAC test at this stage.” (at 4)

FACTUAL BACKGROUND

Maimaitiyiming, a Chinese citizen and Uighur Muslim, filed a Form I-589 affirmative asylum application with USCIS on March 2, 2020. Despite repeated inquiries to USCIS and assistance sought from his local congressman, he had not received an interview date or meaningful status information. USCIS allegedly reported a backlog exceeding 300,000 affirmative asylum cases and used a last-in, first-out scheduling policy, leaving older applications without a reliable scheduling timeframe.

PROCEDURAL HISTORY

Maimaitiyiming filed an affirmative asylum application with USCIS on March 2, 2020, and later filed this action on September 17, 2024, alleging unreasonable agency delay under the APA and seeking mandamus relief. Defendants moved to dismiss for lack of subject matter jurisdiction, failure to state a claim, and premature attorney-fee and cost requests. The court denied dismissal of the surviving APA unreasonable-delay claim, dismissed any APA claim under § 706(2), dismissed the Mandamus Act claim, and dismissed the EAJA request without prejudice.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. Defendants were ordered to answer the remaining APA unreasonable-delay cause of action within twenty-one days of the order.

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994)
- Safe Air for Everyone v. Meyer, 373 F.3d 1035, 1039 (9th Cir. 2004)
- Leite v. Crane Co., 749 F.3d 1117, 1121 (9th Cir. 2014)
- Sopcak v. N. Mountain Helicopter Serv., 52 F.3d 817, 818 (9th Cir. 1995)
- Balistreri v. Pacifica Police Dep’t, 901 F.2d 696, 699 (9th Cir. 1990)
- Porter v. Jones, 319 F.3d 483, 494 (9th Cir. 2003)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007)
- Lee v. City of Los Angeles, 250 F.3d 668, 679 (9th Cir. 2001)
- Sprewell v. Golden State Warriors, 266 F.3d 979, 988 (9th Cir. 2001)
- Manzarek v. St. Paul Fire & Marine Ins. Co., 519 F.3d 1025, 1031 (9th Cir. 2008)

- Schreiber Distrib. Co. v. Serv-Well Furniture Co., 806 F.2d 1393, 1401 (9th Cir. 1986)
- Carrico v. City & County of San Francisco, 656 F.3d 1002, 1008 (9th Cir. 2011)
- Tucson Airport Auth. v. Gen. Dynamics Corp., 136 F.3d 641, 645 (9th Cir. 1998)
- Plaskett v. Wormuth, 18 F.4th 1072, 1081 (9th Cir. 2021)
- Norton v. S. Utah Wilderness All., 542 U.S. 55, 64 (2004)
- Karapetyan v. Mayorkas, No. 2:24-cv-05838-SPG (AGRx), 2025 WL 665651, at *2, *5 & n.4 (C.D. Cal. Feb. 5, 2025)
- Teymouri v. U.S. Citizenship & Immigr. Servs., No. 2:22-cv-07689-PA (JCx), 2022 WL 18717560, at *3 (C.D. Cal. Jan. 31, 2022)
- Liuqing Zhu v. Cissna, No. 2:18-cv-09698-PA (JPRx), 2019 WL 3064458, at *3 (C.D. Cal. Apr. 22, 2019)
- Tailawal v. Mayorkas, No. 2:22-cv-01515-SPG (RAOx), 2022 WL 4493725, at *3 (C.D. Cal. Aug. 18, 2022)
- Hui Dong v. Cuccinelli, No. 2:20-cv-10030-CBM (PLAx), 2021 WL 1214512, at *2 (C.D. Cal. Mar. 2, 2021)
- Viet. Veterans of Am. v. Cent. Intel. Agency, 811 F.3d 1068, 1079, 1081 (9th Cir. 2016)
- Varol v. Radel, 420 F. Supp. 3d 1089, 1096 (S.D. Cal. 2019)
- Telecomm. Rsch. & Action Ctr. v. F.C.C., 750 F.2d 70, 79-80 (D.C. Cir. 1984)
- Varzaghani v. Mayorkas, No. 2:23-cv-01876-DMG (KESx), 2024 WL 2952141, at *3-4 (C.D. Cal. June 5, 2024)
- Baizakova v. Jaddou, No. 8:24-cv-00201-JFW (DFMx), 2024 WL 30632227, at *5 (C.D. Cal. June 14, 2024)
- Zhou v. Mayorkas, No. 2:24-cv-05096-CBM (MRWx), 2024 WL 5047475, at *2, *4 (C.D. Cal. Oct. 25, 2024)
- Davtyan v. Jaddou, No. 2:24-cv-01929-CBM (PDx), 2024 WL 3740096, at *4 (C.D. Cal. July 9, 2024)
- Johnson v. Reilly, 349 F.3d 1149, 1154 (9th Cir. 2003)
- Chen v. Jaddou, 2024 WL 5411391, at *9 (C.D. Cal. Nov. 27, 2024)
- Heraldez v. Bayview Loan Servicing, LLC, No. 2:16-cv-1978-R, 2016 WL 10834101, at *2 (C.D. Cal. Dec. 15, 2016), *aff'd*, 719 F. App'x 663 (9th Cir. 2018)

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