

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NORTH
DAKOTA

Ahmad Bin Nasrullah v. U.S. Citizenship and Immigration Services,
Director

Nasrullah · No. 1:25-cv-00183 · Decided April 3, 2026

SUMMARY

The court grants in part and denies in part the defendant’s motion to dismiss an action concerning delays in adjudicating the plaintiff’s U-visa petition. It dismisses the claim challenging delay in a bona fide determination as jurisdictionally barred, but permits claims concerning the withholding or unreasonable delay of a waiting-list decision to proceed. The court also cautions the plaintiff and the form-document provider regarding ghostwritten filings and directs the defendant to answer the remaining claims by April 17, 2026.

CASE DETAILS

COURT	United States District Court for the District of North Dakota
WRITING FOR THE COURT	Clare R. Hochhalter
JURISDICTION	United States District Court for the District of North Dakota
DECIDED	April 3, 2026
DOCKET	1:25-cv-00183
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved under Federal Rule of Civil Procedure 12(b)(1) to dismiss an Administrative Procedure Act action challenging delays in adjudicating Plaintiff's U-visa-related bona fide determination and waiting-list decision.
STANDARD OF REVIEW	For a facial Rule 12(b)(1) challenge, the court considered the pleadings and applied the protections applicable under Rule 12(b)(6), accepting the complaint's factual allegations as true and drawing reasonable inferences in Plaintiff's favor. The plaintiff bears the burden of establishing subject matter jurisdiction.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Ahmad Bin Nasrullah v. U.S. Citizenship and Immigration Services, Director

TOPICS

u visa immigration administrative procedure act judicial review of agency action
subject matter jurisdiction

PRACTICE AREAS

immigration administrative law civil procedure

QUESTIONS PRESENTED

1. Whether the court had subject matter jurisdiction over Plaintiff's APA claim seeking to compel a bona fide determination and related employment authorization or deferred action.
2. Whether USCIS's alleged withholding or unreasonable delay of a U-visa waiting-list decision was reviewable despite the jurisdiction-stripping provision of 8 U.S.C. § 1252(a)(2)(B)(ii).
3. Whether Plaintiff's waiting-list claims were unripe because USCIS had not completed the bona fide-determination process.
4. Whether the court should address concerns regarding Plaintiff's use of a purchased form complaint and warn against future ghostwritten filings.

HOLDINGS

1. The court lacks subject matter jurisdiction over Plaintiff's claim seeking a bona fide determination because the decision to grant employment authorization in connection with a pending bona fide U-visa petition is discretionary and falls within the jurisdiction-stripping provision of 8 U.S.C. § 1252(a)(2)(B)(ii).
2. The court has jurisdiction to review claims that USCIS unlawfully withheld or unreasonably delayed a U-visa waiting-list decision because placement of eligible petitioners on the waiting list is nondiscretionary and is not exempted from review by 8 U.S.C. § 1252(a)(2)(B)(ii).
3. A U-visa petitioner is not legally required to receive a bona fide determination before becoming entitled to a waiting-list decision; the two tracks are legally separate under the governing statute and regulation.
4. Plaintiff's claims alleging unlawful withholding and unreasonable delay of a waiting-list decision are ripe for judicial review.

KEY QUOTATIONS

"A WLD is not legally contingent on a speculative future BFD, and Plaintiff's claim for unreasonable delay is therefore fit for judicial decision." (Section III.B)

"U-visa applicants can be funneled into either the BFD EAD track or the waitlist track – the tracks are separate." (Section III.B)

"The assertion that Defendant is unlawfully withholding or unreasonably delaying a WLD is "a challenge to actual agency delay and inaction, not speculative delay."" (Section III.C)

FACTUAL BACKGROUND

Plaintiff, a Pakistani national residing in North Dakota, was the victim of an aggravated assault in Texas in October 2023. He filed an I-918 petition for U nonimmigrant status and a Form I-765 for employment authorization in September 2024. USCIS had taken no action on the applications by the time Plaintiff filed suit in August 2025. Plaintiff alleged that USCIS unlawfully delayed or withheld both a bona fide determination and a waiting-list decision, causing him to lack deferred action, work authorization, and related benefits.

PROCEDURAL HISTORY

Plaintiff filed the action on August 4, 2025, alleging unreasonable delay and unlawful withholding by USCIS. The court stayed the case during a lapse in federal appropriations, later lifted the stay, and extended Defendant's response deadline. Defendant moved to dismiss for lack of subject matter jurisdiction. Plaintiff did not respond despite being re-served. The court granted the motion in part as to the bona fide-determination claim and denied it in part as to the waiting-list claims.

DISPOSITION

other

CASES CITED

- Croyle by & through Croyle v. United States, 908 F.3d 377, 831 (8th Cir. 2018)
- Green Acres Enterprises, Inc. v. United States, 418 F.3d 852, 856 (8th Cir. 2005)
- Osborn v. United States, 918 F.2d 724, 729 n.6 (8th Cir. 1990)
- Smith v. UnitedHealth Group, Inc., 106 F.4th 809, 813 (8th Cir. 2024)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Telecommunications Research & Action Center v. FCC, 750 F.2d 70, 80 (D.C. Cir. 1984)
- Monroy v. Director, U.S. Citizenship & Immigration Services, No. 8:25CV74, 2025 WL 1267767, at *5 (D. Neb. May 1, 2025)
- Joshi v. Garland, 728 F. Supp. 3d 1028, 1033 (D. Neb. 2024)
- Thigulla v. Jaddou, 94 F.4th 770, 775 (8th Cir. 2024)
- Patel v. U.S. Citizenship & Immigration Services, No. 1:25-CV-00114-ACL, 2026 WL 146496, at *5 (E.D. Mo. Jan. 20, 2026)
- Prajapati v. Alfonso-Royals, No. 4:25-CV-00258-DGK, 2026 WL 36451, at *6 (W.D. Mo. Jan. 6, 2026)
- School of the Ozarks, Inc. v. Biden, 41 F.4th 992, 998 (8th Cir. 2022)
- Noorani v. Director of U.S. Citizenship and Immigration Services, No. 8:25-cv-221, 2025 WL 3282296, at *2 (D. Neb. Nov. 25, 2025)
- Trump v. New York, 592 U.S. 125, 131 (2020)
- Barrios Garcia v. U.S. Department of Homeland Security, 25 F.4th 430, 441 (6th Cir. 2022)
- Patel v. Director, U.S. Citizenship & Immigration Services, No. 8:25CV59, 2025 WL 1655294, at *2 n.3 (D. Neb. June 11, 2025)

