

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
MISSISSIPPI, OXFORD DIVISION

Alpeshkumar Patel v. Director, U.S. Citizenship and Immigration
Services

Patel · No. 1:25-cv-00111-JDM-DAS · Decided March 18, 2026

SUMMARY

The United States District Court for the Northern District of Mississippi granted USCIS's motion to dismiss an action seeking to compel action on an applicant's U visa petition. The court held that the alleged delay in making a bona fide determination was not subject to judicial review because the determination is discretionary. It dismissed the waiting-list claims with prejudice, finding no statutory deadline and no plausible claim of unreasonable delay based on the approximately six-month wait.

CASE DETAILS

COURT	United States District Court for the Northern District of Mississippi, Oxford Division
WRITING FOR THE COURT	James D. Maxwell II
JURISDICTION	United States District Court for the Northern District of Mississippi, Oxford Division
DECIDED	March 18, 2026
DOCKET	1:25-cv-00111-JDM-DAS
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought an Administrative Procedure Act action seeking to compel USCIS to make a bona fide determination or place his U visa petition on the waiting list. USCIS moved to dismiss under Federal Rule of Civil Procedure 12(b)(6) and for lack of subject matter jurisdiction.
STANDARD OF REVIEW	For the Rule 12(b)(6) claims, the court applied the plausibility standard, accepting factual allegations as true and requiring allegations sufficient to raise a right to relief above the speculative level. The bona fide-determination claim was dismissed for lack of subject matter jurisdiction because the challenged agency action was discretionary and exempt from judicial review.
PRECEDENTIAL VALUE	Unknown; federal district court memorandum opinion and order.

PARTIES

Alpeshkumar Patel v. Director, U.S. Citizenship and Immigration Services

TOPICS

u visa

administrative procedure act

judicial review of agency action

immigration

motions to dismiss

PRACTICE AREAS

immigration law

administrative law

civil procedure

judicial review of agency action

QUESTIONS PRESENTED

1. Whether the court had subject matter jurisdiction under the Administrative Procedure Act to review an alleged unreasonable delay in USCIS's bona fide determination on Patel's U visa petition.
2. Whether Patel stated an Administrative Procedure Act claim that USCIS unlawfully withheld a waiting-list decision when no statutory deadline required USCIS to make that decision by a particular date.
3. Whether an alleged six-month delay in making a U visa waiting-list decision plausibly established unreasonable delay.

HOLDINGS

1. The court lacked subject matter jurisdiction to review Patel's claim that USCIS unreasonably delayed making a bona fide determination because the determination and its timing were discretionary and immigration law precluded judicial review of such discretionary action.
2. Patel failed to state a claim that USCIS unlawfully withheld a waiting-list decision because an unlawfully withheld claim requires a statutorily imposed absolute deadline, and Patel identified no such deadline.
3. Patel failed to state a plausible claim that USCIS unreasonably delayed making a waiting-list decision because the alleged six-month delay, without more, was insufficient to establish unreasonable delay.

KEY QUOTATIONS

"A bona fide determination is a discretionary call exempted from judicial review." (Opening disposition)

"Patel's claim that USCIS unreasonably delayed making a bona fide determination is DISMISSED without prejudice for lack of subject matter jurisdiction." (Conclusion)

"Patel's alternative claims that USCIS unlawfully withheld and unreasonably delayed a waiting list decision are DISMISSED with prejudice for failure to state a claim upon which relief can be granted." (Conclusion)

FACTUAL BACKGROUND

Patel, an Indian citizen residing in Mississippi, was the victim of an armed robbery and filed a U visa petition on January 16, 2025, along with petitions for two qualifying family members. USCIS issued receipt numbers but had not made a bona fide determination or a waiting-list decision by the time Patel filed suit approximately six

months later. Patel sought employment authorization and asked the court to compel USCIS to make the relevant determination within fourteen or thirty days.

PROCEDURAL HISTORY

Patel filed a U visa petition on January 16, 2025, and filed this action on July 9, 2025, alleging that USCIS had unreasonably delayed a bona fide determination and had unlawfully withheld or unreasonably delayed a waiting-list decision. Patel did not respond to USCIS's motion to dismiss. The court granted the motion, dismissing the bona fide-determination claim without prejudice for lack of subject matter jurisdiction and dismissing the waiting-list claims with prejudice for failure to state a claim.

DISPOSITION

other

CASES CITED

- Vimal S. P. v. Garland, No. 4:24-cv-04002, 2025 WL 2774400 (S.D. Tex. Sept. 26, 2025)
- Monroy v. Director, U.S. Citizenship & Immigration Services, No. 8:25cv74, 2025 WL 1267767 (D. Neb. May 1, 2025)
- Patel v. Noem, 788 F. Supp. 3d 950, 953, 955-58 (N.D. Ill. 2025)
- D'Cruz v. U.S. Citizenship & Immigration Services, No. H-24-340, 2024 WL 4523307 (S.D. Tex. Oct. 9, 2024)
- Garcia v. U.S. Citizenship & Immigration Services, 760 F. Supp. 3d 671, 673 (N.D. Ill. 2024)
- In re Great Lakes Dredge & Dock Co. LLC, 624 F.3d 201, 210 (5th Cir. 2010)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007)
- Topuz v. Daum, No. 4:23-cv-2431, 2024 WL 4282091, at *5 (S.D. Tex. Sept. 24, 2024)
- Sarlak v. Pompeo, No. CV 20-35 (BAH), 2020 WL 3082018, at *6 (D.D.C. June 10, 2020)
- Yavari v. Pompeo, No. 19-cv-02524, 2019 WL 6720995, at *8 (C.D. Cal. Oct. 10, 2019)
- Mokuolu v. Mayorkas, No. RDB-24-817, 2024 WL 4783542, at *6-8 (D. Md. 2024)
- N-N v. Mayorkas, 540 F. Supp. 3d 240, 260-64 (E.D.N.Y. 2021)
- V.U.C. v. U.S. Citizenship & Immigration Services, 557 F. Supp. 3d 218, 224 (D. Mass. 2021)
- Cheejati v. Blinken, 106 F.4th 388, 396 (5th Cir. 2024)