

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TEXAS, SHERMAN DIVISION

Frankford Vapor Inc. and Muhammad Bilal Khan v. Marco Rubio, et
al.

No. 4:25-cv-45, United States District Court for the Eastern District of Texas, Sherman Division (February 2,
2026)

SUMMARY

The United States District Court for the Eastern District of Texas granted Defendants’ motion to dismiss an action challenging the delay in processing Muhammad Bilal Khan’s E-2 visa application. The court held that the visa application had already been refused under INA § 221(g), making Plaintiffs’ claims for relief under the Administrative Procedure Act and Mandamus Act moot. The court further concluded that, even if the claims were not moot, they were nonjusticiable and failed to identify a legally required, discrete agency action or nondiscretionary duty.

CASE DETAILS

COURT	United States District Court for the Eastern District of Texas, Sherman Division
WRITING FOR THE COURT	Amos L. Mazzant
JURISDICTION	United States District Court for the Eastern District of Texas, Sherman Division
DECIDED	February 2, 2026
DOCKET	4:25-cv-45
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendants moved to dismiss Plaintiffs' amended complaint under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). The court granted the motion and dismissed the case.
STANDARD OF REVIEW	On a Rule 12(b)(1) motion, the court may consider the complaint, undisputed record evidence, and disputed facts resolved by the court; the plaintiff bears the burden of establishing subject-matter jurisdiction. On a Rule 12(b)(6) motion, well-pleaded facts are accepted as true and the complaint must contain sufficient factual matter to state a facially plausible claim.

PRECEDENTIAL VALUE	unpublished district court memorandum opinion and order; persuasive within the district but not binding precedent outside the case
PARTIES	Frankford Vapor Inc., Muhammad Bilal Khan v. Marco Rubio, United States Department of State officials and other defendants

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QUESTIONS PRESENTED

1. Whether Plaintiffs' claims seeking an order compelling adjudication of Khan's visa application were moot because the application had already been refused under INA § 221(g).
2. Whether the court had subject-matter jurisdiction over Plaintiffs' claims under Article III, the APA, and the Mandamus Act.
3. Whether, alternatively, Plaintiffs stated plausible claims under the APA or Mandamus Act by identifying a legally required, discrete agency action or a nondiscretionary duty.
4. Whether Plaintiffs could obtain declaratory or injunctive relief under the Declaratory Judgment Act based on the alleged delay in visa processing.

HOLDINGS

1. A consular officer's refusal of Khan's visa application under INA § 221(g) constituted a final adjudication for purposes of Plaintiffs' requested relief, even though additional administrative processing continued. Because the court could not compel Defendants to conclude processing and issue another final decision on an application already refused, Plaintiffs' unreasonable-delay claims were moot.
2. Because Plaintiffs' claims for unreasonable delay were moot, the court lacked subject-matter jurisdiction to adjudicate the action.
3. Even if the claims were not moot, Plaintiffs failed to state claims under the APA or the Mandamus Act because they did not identify a legally required, discrete agency action that Defendants failed to perform or a nondiscretionary duty owed to Plaintiffs.

KEY QUOTATIONS

“A claim under § 706(1) can proceed only where a plaintiff asserts that an agency failed to take a discrete agency action that it is required to take.”

“The Court similarly holds that Defendants’ refusal of Khan’s visa application constituted a final adjudication of the application, and thus, the Court cannot provide Plaintiffs with the requested relief of issuing an order

compelling Defendants to conclude administrative processing and render another final decision.”

“Thus, because Plaintiffs have not identified a legal duty Defendants violated or a legally required, discrete act Defendants failed to perform, Plaintiffs have not alleged plausible claims under the Mandamus Act or APA.”

FACTUAL BACKGROUND

On December 7, 2023, Muhammad Bilal Khan submitted a DS-160 application for an E-2 treaty trader or investor visa. After a January 24, 2024 interview at the U.S. Consulate-General in Karachi, the consular officer refused the application under INA § 221(g), and the application entered additional administrative or security processing. Plaintiffs alleged that the application remained pending and sought an order compelling Defendants to complete the process and issue a final decision.

PROCEDURAL HISTORY

Khan applied for an E-2 nonimmigrant visa and was interviewed at the U.S. Consulate-General in Karachi, Pakistan. The consular officer refused the application under INA § 221(g), while additional administrative processing continued. Plaintiffs then filed an action under the Administrative Procedure Act, the Mandamus Act, and the Declaratory Judgment Act seeking an order compelling Defendants to complete the visa process and issue a final decision. After Plaintiffs filed an amended complaint, Defendants moved to dismiss, and the court granted the motion.

DISPOSITION

dismissed

CASES CITED

- Home Builders Ass'n of Miss., Inc. v. City of Madison, 143 F.3d 1006, 1010 (5th Cir. 1998)
- Ramming v. United States, 281 F.3d 158, 161 (5th Cir. 2001)
- Lane v. Halliburton, 529 F.3d 548, 557 (5th Cir. 2008)
- Barrera-Montenegro v. United States, 74 F.3d 657, 659 (5th Cir. 1996)
- Truman v. United States, 26 F.3d 592, 594 (5th Cir. 1994)
- Menchaca v. Chrysler Credit Corp., 613 F.2d 507, 511 (5th Cir. 1980)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007)
- Bowlby v. City of Aberdeen, 681 F.3d 215, 219 (5th Cir. 2012)
- Lone Star Fund V (U.S.), L.P. v. Barclays Bank PLC, 594 F.3d 383, 387 (5th Cir. 2010)
- Ashcroft v. Iqbal, 556 U.S. 662, 664, 678-79 (2009)
- In re S. Scrap Material Co., LLC, 541 F.3d 584, 587 (5th Cir. 2008)
- Norton v. S. Utah Wilderness All., 542 U.S. 55, 64 (2004)
- Giddings v. Chandler, 979 F.2d 1104, 1108 (5th Cir. 1992)
- Decker v. Nw. Env't Def. Ctr., 568 U.S. 597, 609 (2013)

- Powell v. McCormack, 395 U.S. 486, 496 (1969)
- United States v. Sanchez-Gomez, 584 U.S. 381, 385-86 (2018)
- Already, LLC v. Nike, Inc., 568 U.S. 85, 91 (2013)
- Bamdad v. U.S. Dept. of State, No. 1:23-CV-757-DAE, 2024 WL 1462948, at *1-*6 (W.D. Tex. Feb. 9, 2024)
- Mazher v. Rubio, No. 4:25-CV-017-P, 2025 WL 2471789, at *5 (N.D. Tex. Aug. 11, 2025)
- Karimova v. Abate, No. 23-5178, 2024 WL 3517852, at *2-*6 (D.C. Cir. July 24, 2024) (per curiam) (unpublished)
- Dept. of State v. Munoz, 602 U.S. 899, 908 (2024)

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