

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
TEXAS

Alexander Salgar v. Kristie Noem, et al.

Salgar v. Noem · No. H-25-4613 · Decided February 2, 2026

SUMMARY

The United States District Court for the Southern District of Texas holds that it has subject-matter jurisdiction over Alexander Salgar’s claim that USCIS unreasonably delayed adjudicating his VAWA I-360 self-petition. The court concludes that a 17-month delay was not unreasonable because the estimated processing time was 45 months and grants the defendants’ motion for summary judgment.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas
WRITING FOR THE COURT	Lee H. Rosenthal
JURISDICTION	United States District Court for the Southern District of Texas
DECIDED	February 2, 2026
DOCKET	H-25-4613
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought an action seeking an order compelling USCIS and other defendants to adjudicate his immigration application under the Administrative Procedure Act. Defendants moved to dismiss for lack of subject-matter jurisdiction or, alternatively, for summary judgment. The court denied the jurisdictional challenge and granted summary judgment for defendants on the merits.
STANDARD OF REVIEW	Summary judgment is granted when the record establishes that the moving party is entitled to judgment on the merits as a matter of law. For an APA claim under 5 U.S.C. § 706(1), the court considered whether agency action had been unlawfully withheld or unreasonably delayed.
PRECEDENTIAL VALUE	Unknown

TOPICS

mandamus immigration

visa petitions

administrative procedure act

judicial review of agency action

summary judgment

PRACTICE AREAS

immigration

administrative law

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether the district court had subject-matter jurisdiction to review Salgar's claim that USCIS unlawfully delayed adjudication of his application.
2. Whether USCIS had unreasonably delayed adjudication of Salgar's application under the Administrative Procedure Act.

HOLDINGS

1. The district court had subject-matter jurisdiction to review Salgar's complaint alleging unlawful agency delay because 5 U.S.C. § 555(b) imposes a nondiscretionary duty on USCIS to adjudicate asylum applications within a reasonable time.
2. A seventeen-month delay in adjudicating Salgar's application was not unreasonable where the estimated processing time for similar VAWA I-360 self-petitions was forty-five months and the application remained within normal processing times.

KEY QUOTATIONS

"5 U.S.C. § 555(b) imposes a nondiscretionary duty on USCIS to adjudicate asylum applications within a reasonable time."

"Salgar's application is well within the normal processing times for similar petitions."

FACTUAL BACKGROUND

Salgar, a non-citizen J-360 self-petitioner, filed his application on August 6, 2024, attended a biometrics appointment on September 10, 2024, and received a prima facie determination of approval on September 26, 2024. USCIS had not taken further affirmative steps to adjudicate the application by the time of the opinion. The application had been pending for approximately seventeen months, while the estimated processing time for VAWA I-360 self-petitions was forty-five months.

PROCEDURAL HISTORY

Salgar filed an APA action alleging that defendants unreasonably delayed adjudication of his application. Defendants moved to dismiss or for summary judgment. The district court held that it had subject-matter jurisdiction but concluded that the delay was not unreasonable, granted defendants' motion for summary judgment, and stated that it would enter a separate final judgment.

DISPOSITION

other

CASES CITED

- Cotto Rivas v. U.S. Dep't Homeland Sec., No. 25-435, ECF No. 28 at 1 n.1 (S.D. Tex. Jan. 12, 2026)
- Ahmed v. Bitter, 727 F. Supp. 3d 630, 636 (S.D. Tex. 2024)
- Ayana v. Jaddou, No. CV H-23-2937, 2023 WL 8936700, at *4 (S.D. Tex. Dec. 27, 2023)
- Teymouri v. U.S. Citizenship and Immigrations Servs., No. CV 22-7689, 2022 WL 18717560, at *4 (C.D. Cal. Jan. 31, 2022)
- Maxhuni v. Mayorkas, No. 23-cv-09076, 2024 WL 3090165 (S.D.N.Y. June 20, 2024)
- Yavari v. Pompeo, No. 2:19-cv-02524, 2019 WL 6720995, at *8 (C.D. Cal. Oct. 10, 2019)

OPINION

Southern District of Texas ENTERED IN THE UNITED STATES DISTRICT COURT February 04, 2026 FOR THE SOUTHERN DISTRICT OF TEXAS Nathan Ochsner, Clerk HOUSTON DIVISION § ALEXANDER SALGAR, § § Plaintiff, § v. § CIVIL ACTION NO. H-25-4613 § KRISTIE NOEM, et al., § § Defendant. § § § MEMORANDUM OPINION AND ORDER Alexander Salgar is a non-citizen J-360 self-petitioner who alleges that the defendants have failed to timely adjudicate his asylum application.

(Docket Entry No. 1 at 2). Salgar filed his application on August 6, 2024; attended a biometrics appointment on September 10, 2024; and was granted a prima facie determination of approval on September 26, 2024. (Ud. at 4-5). Since then, the U.S. Citizenship and Immigration Services has not taken further “affirmative steps in adjudicating” Salgar’s application. (/d. at 5).

Salgar seeks an order compelling the defendants to adjudicate his application, alleging a violation of the Administrative Procedure Act’s requirement that administrative agencies conclude matters presented to them within a reasonable time. 5 U.S.C. § 555(b); see id. § 706(1) (explaining that district courts may “compel agency action unlawfully withheld or unreasonably delayed”).

The defendants have moved to dismiss and, in the alternative, for summary judgment. (Docket Entry No. 6). The defendants argue that this court lacks subject-matter jurisdiction to consider Salgar’s complaint and that their delay in adjudicating Salgar’s petition is not unreasonable. □□□□ at 11-21).

The defendants’ motion for summary judgment, (Docket Entry No. 6), is granted on the merits.. First, this court has subject-matter jurisdiction over the plaintiff's complaint. This court recently ruled that it has subject-matter jurisdiction to review similar complaints of unlawful agency delay because “5 U.S.C. § 555(b) imposes a nondiscretionary duty on USCIS to adjudicate asylum applications within a reasonable time.” Cotto Rivas v. U.S. Dep’t Homeland Sec., No. 25.

435, ECF No. 28 at 1 n.1 (S.D. Tex. Jan. 12, 2026) (citing *Ahmed v. Bitter*, 727 F. Supp. 3d 630, 636 (S.D. Tex. 2024)). Second, the defendants have not unreasonably delayed in adjudicating Salgar's application. Salgar's application has been pending for 17 months. (See Docket Entry No. | at 4-5). But □□ "current estimated processing time for VAWA I-360 self-petitions is 45 months." (Docket Entry No. 6-1 at 5). "While the court sympathizes with" Salgar's "frustration, it is a frustration shared by" many in his position.

Ayana v. Jaddou, No. CV H-23-2937, 2023 WL 8936700, at *4 (S.D. Tex. Dec. 27, 2023). "To give him an accelerated place in line would add to the wait another would endure." *Jd. Salgar's* application is well within the normal processing times for similar petitions. It is also well within the four-to-five-year period in which courts have concluded that agency delay is reasonable.

See, e.g., *Teymouri v. U.S. Citizenship and Immigrations Servs.*, No. CV 22-7689, 2022 WL 18717560, at *4 (C.D. Cal. Jan. 31, 2022) (five-year delay not unreasonable); *Maxhuni v. Mayorkas*, No. 23-cv-09076, 2024 WL 3090165 (S.D.N.Y. June 20, 2024) (almost five-year delay not unreasonable); *Yavari v. Pompeo*, No. 2:19-cv-02524, 2019 WL 6720995, at *8 (C.D. Cal. Oct. 10, 2019) (collecting cases and noting that district courts in California had generally found that "immigration delays in excess of five, six, seven years are unreasonable, while those between three to five years are not unreasonable."). Salgar offers no record evidence or similar case that shows that the defendants have unreasonably delayed in adjudicating his application.

For these reasons, the defendants' motion for summary judgment, (Docket Entry No. 6), is. □□ granted. The court will enter separately a final judgment. - SIGNED on February 2, 2026, at Houston, Texas. LW Onoda Lee H. Rosenthal Senior United States District Judge