

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

EMC Inc., on behalf of Rekesh Mogili v. United States of America, et
al.

Civil Action No. 4:25-cv-302 · No. 4:25-cv-302 · Decided January 12, 2026

SUMMARY

The United States District Court for the Eastern District of Texas granted Defendants’ motion to dismiss an Administrative Procedure Act challenge to USCIS’s denial of an H-1B petition. The Court held that EMC Inc. lacked standing because it was not the entity that filed the petition and alternatively concluded that the petition was abandoned after the petitioner failed to timely respond to USCIS requests.

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	January 12, 2026
DOCKET	4:25-cv-302
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff sought judicial review under the Administrative Procedure Act of USCIS's denial of an I-129 petition for a nonimmigrant H-1B worker. Defendants moved to dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). The court granted the motion and dismissed the action with prejudice.
STANDARD OF REVIEW	On a Rule 12(b)(1) motion, the plaintiff bears the burden of establishing subject-matter jurisdiction, and the court may consider the complaint, undisputed record evidence, and its resolution of disputed facts. Well-pleaded allegations are accepted as true and construed in the plaintiff's favor. On a Rule 12(b)(6) motion, the court accepts well-pleaded facts as true, disregards conclusory allegations, and

determines whether the complaint states a facially plausible claim for relief.

PRECEDENTIAL VALUE

Unknown; memorandum opinion from a federal district court with no reported citation.

TOPICS

visa petitions standing administrative procedure act motions to dismiss subject matter jurisdiction

PRACTICE AREAS

immigration administrative law civil procedure constitutional law

QUESTIONS PRESENTED

1. Whether EMC Inc. had Article III standing to challenge USCIS's denial of an I-129 petition filed by a different entity.
2. Whether the complaint stated an APA claim challenging USCIS's denial of the I-129 petition.
3. Whether USCIS properly treated the I-129 petition as abandoned after the petitioner failed to timely respond to a request for evidence or notice of intent to deny.

HOLDINGS

1. EMC Inc. lacked standing to challenge the denial because it was not the entity that filed the I-129 petition and therefore had not suffered a legal wrong or injury fairly traceable to USCIS's decision.
2. The complaint failed to state a claim that USCIS violated the APA because the petition was denied after the petitioner failed to timely respond to USCIS's request for evidence or notice of intent to deny, and the plaintiff did not allege that the required motion to reopen was timely filed.

KEY QUOTATIONS

“Standing is “an essential and unchanging part of the case-or-controversy requirement of Article III.””

“To establish standing, a plaintiff must show an injury-in-fact that is fairly traceable to the challenged conduct, and the injury will likely be redressed by a favorable decision on the merits.”

FACTUAL BACKGROUND

EMC Consulting Group, Inc. filed an I-129 petition on June 30, 2021, seeking H-1B specialty-occupation classification for Rekish Mogili. USCIS denied the petition on October 20, 2022, after determining that the petitioner had failed to timely respond to a request for evidence or notice of intent to deny, and treated the petition as abandoned. EMC Inc., a different entity from the petitioner identified in the USCIS decision, filed this APA action seeking to set aside the denial and compel approval of the petition.

PROCEDURAL HISTORY

EMC Inc. filed suit challenging USCIS's denial of an I-129 petition filed by EMC Consulting Group, Inc. on behalf of Rekesh Mogili. The action was severed from a prior case involving four beneficiaries. Defendants moved to dismiss for lack of standing and failure to state an APA claim, and Plaintiff did not respond. The court granted the motion under Rule 12(b)(1), additionally concluding that dismissal under Rule 12(b)(6) was warranted, and closed the case.

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, 570 (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)
- Gonzalez v. Kay, 577 F.3d 600, 603 (5th Cir. 2009)
- Ashcroft v. Iqbal, 556 U.S. 662, 664, 678-79 (2009)
- Morgan v. Hubert, 335 F. App'x 466, 470 (5th Cir. 2009)
- Lujan v. Defs. of Wildlife, 504 U.S. 555, 560-61 (1992)
- Match-E-Be-Nash-She-Wish Band of Pottawatomí Indians v. Patchak, 567 U.S. 209, 224 (2012)
- Kale v. INS, 37 F. App'x 90, *2 (5th Cir. 2002) (per curiam) (unpublished)