

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

**Tu Minh Phan v. United States Citizenship and Immigration Services
(USCIS); Markwayne Mullin; Todd Blanche; Joseph B. Edlow;
Carrie M. Selby; Terri Robinson; Andrea Quarantillo; Lori
Pietropaoli; and Kay Leopold**

Phan · No. 3:25-cv-00568-jdp · Decided April 15, 2026

SUMMARY

The United States District Court for the Western District of Wisconsin granted the defendants' motion to dismiss Tu Minh Phan's claims concerning the handling of his request to adjust his wife's immigration status. The court dismissed the administrative-delay claims as moot, the Immigration and Nationality Act procedural-error claims for failure to exhaust administrative remedies, the Administrative Procedure Act claims as premature, and the due-process and estoppel claims with prejudice for failure to state a claim.

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN TU MINH PHAN, Plaintiff, v. UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES (USCIS); MARKWAYNE MULLIN, Secretary of the U.S. Department of Homeland Security; TODD BLANCHE; Acting Attorney General of the United States; JOSEPH B. EDLOW, Director of United ORDER States Citizenship and Immigration Services; CARRIE M. SELBY, Acting Associate Director for the 25-cv-568-jdp Service Center Operations Directorate at USCIS; TERRI ROBINSON, Director of the National Benefits Center at USCIS; ANDREA QUARANTILLO, Central Regional Director for the North East Region at USCIS; LORI PIETROPAOLI, District Director District 14 at USCIS; and KAY LEOPOLD, Milwaukee Field Office Director at USCIS, Defendants.¹ Plaintiff Tu Minh Phan is suing the federal government for its alleged mishandling of his request to adjust his wife's immigration status.

His primary contention is that officials unduly delayed in forwarding his administrative appeal to the Board of Immigration Appeals (BIA), but he also contends that officials violated his rights by failing to give adequate reasons for their initial decision denying his request, failing to apply the correct legal standard, and 1 The court has amended the caption to reflect recent changes of federal officers being sued in their official capacity.

See Fed. R. Civ. P. 25(d). making improper objections to his evidence. He also asks that the government be estopped from “invoking procedural bars.” Dkt. 17, at 9. The government moves to dismiss the case, contending that the claim about undue delay is moot because plaintiff concedes that the appeal has now been forwarded to the BIA, and his remaining claims fail either because they are not ripe or they are barred by Seventh Circuit precedent.

Dkt. 18. Phan’s deadline for opposing the motion was March 20, but Phan has not filed a response. “If [courts] are given plausible reasons for dismissing a complaint, they are not going to do the plaintiff’s research and try to discover whether there might be something to say against the defendants’ reasoning.” *Kirksey v. R.J. Reynolds Tobacco Co.*, 168 F.3d 1039, 1041 (7th Cir. 1999).

The government has given plausible reasons for dismissing the complaint and has cited binding authority that supports its arguments. So the government’s motion to dismiss, Dkt. 18, is GRANTED. Phan’s claims that defendants violated the Immigration and Nationality Act and Administrative Procedure Act by unduly delaying his administrative appeal are DISMISSED without prejudice as moot.

Phan’s claims that defendants violated the Immigration and Nationality Act by making procedural errors are DISMISSED without prejudice for failure to exhaust administrative remedies. Phan’s claims that defendants violated the Administrative Procedure Act by making procedural errors are DISMISSED without prejudice because defendants have not issued a final agency action.

Phan’s claims that defendants violated his rights under the Due Process Clause and are estopped from asserting certain arguments are DISMISSED with prejudice for failure to state a claim upon which relief may be granted.

The clerk of court is directed to enter judgment accordingly and close this case. The preliminary pretrial conference scheduled for April 20 is CANCELED. Entered April 15, 2026. BY THE COURT: /s/ _____ JAMES D. PETERSON District Judge