

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

SNEHALBEN SHAILESHBHAI PATEL)
(A [REDACTED])
)
Plaintiff,)
)
v.)
)
KRISTI NOEM, Secretary, U.S. Department of)
Homeland Security, and JOSEPH EDLOW,)
Director, U.S. Citizenship & Immigration Services.)
)
Defendants.)

Case No. 3:26CV-131-CHB

**PETITION FOR WRIT OF MANDAMUS, FOR DECLARATORY
JUDGMENT AND OTHER RELIEF**

Plaintiff, SNEHALBEN SHAILESHBHAI PATEL, by and through her own and proper person and through her attorneys KRIEZELMAN BURTON & ASSOCIATES, LLC, hereby petition this Honorable Court for a Writ of Mandamus, Declaratory Judgment and Other Relief, requesting that the Court to direct U.S. Department of Homeland Security and U.S. Citizenship & Immigration Services (hereinafter “USCIS”) to adjudicate her Motion to Reopen and Reconsider (Form I-290B), and in support thereof, state as follows:

Introduction

1. This is a civil action brought by Plaintiff SNEHALBEN SHAILESHBHAI PATEL to compel the Defendants to take action on her Motion to Reopen (Form I-290B) filed with U.S. Citizenship and Immigration Services (“USCIS”) on or about June 2, 2025.

Jurisdiction And Venue

2. This court has jurisdiction over this action pursuant to 28 U.S.C. section 1331 (federal question) in conjunction with 28 U.S.C. section 1361 (mandamus), the Administrative

Procedure Act (APA) (5 U.S.C. § 555(b) and 5 U.S.C. §702), and the Immigration & Nationality Act and regulations implementing it (Title 8 of the CFR).

3. Under 28 U.S.C. section 1331, “(t)he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” There is jurisdiction under 28 U.S.C. section 1331 because this action arises under the Administrative Procedure Act (APA) (5 U.S.C. § 555(b) and 5 U.S.C. § 702), and the Immigration & Nationality Act (INA) and regulations implementing it (Title 8 of the CFR).
4. Under 28 U.S.C. section 1361, “(t)he district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.”
5. Further, pursuant to the APA, a person is entitled to judicial review where they have been “adversely affected or aggrieved by agency action,” and therefore an action “stating a claim that an agency or an officer or employee thereof acted or failed to act in an official capacity...shall not be dismissed nor relief be denied on the ground that it is against the United States.” *See* 5 U.S.C. § 702.
6. The APA requires USCIS to carry out its duties within a reasonable time. 5 U.S.C. section 555(b) states, “(w)ith due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it.” USCIS is subject to 5 U.S.C. section 555(b). Plaintiffs contend that the delay in processing the motions to reopen and reconsider is unreasonable.
7. Both the regulations and the INA provide numerous examples of duties owed by USCIS in the adjustment of status process. 8 U.S.C. section 1103 states that “[t]he Attorney General

shall be charged with the administration and enforcement of this chapter and all other laws relating to the immigration and naturalization of aliens.” (emphasis added).

8. The regulations provide that “[a] request for evidence or notice of intent to deny will be communicated by regular or electronic mail and will specify the type of evidence required, and whether initial evidence or additional evidence is required, or the bases for the proposed denial sufficient to give the applicant or petitioner adequate notice and sufficient information to respond.” 8 C.F.R. §103.2(b)(8)(iv)
9. The failure to receive a request for evidence is a basis for a motion to reopen and requires the applicants to support the request by “affidavits and other documentary evidence.” 8 C.F.R. § 103.5(a)(2).
10. The language of the statute and these regulations are mandatory, not discretionary, and requires the Defendant to adjudicate adjustment of status applications, visa petitions and motions to reopen for those applications. USCIS has a mandatory duty to adjudicate applications and petitions and jurisdiction thus vests in mandamus before this Court. *Iddir v. INS*, 301 F.3d 492, 500 (7th Cir. 2002).
11. Venue of this action is proper under 28 U.S.C. section 1391(e)(1). The Defendants maintain offices in this district and Plaintiff SNEHALBEN SHAILESHBHAI PATEL reside in Shepherdsville, Kentucky, which is within this judicial district.

Parties

12. Plaintiff SNEHALBEN SHAILESHBHAI PATEL is a native and citizen of India.
13. Defendant KRISTI NOEM, Secretary for the Department of Homeland Security (“DHS”), is being sued in his official capacity only. Pursuant to the Homeland Security Act of 2002, Pub. L. 107-296, Defendant NOEM, through his delegates, has authority to adjudicate

adjustment of status applications and visa petitions filed with the United States Citizenship and Immigration Services (USCIS) and to accord lawful permanent resident status pursuant to 8 U.S.C. section 1255.

14. Defendant JOSEPH EDLOW is sued in his official capacity only. He is the Director of U.S. Citizenship & Immigration Services (“USCIS”). As such, he is charged with the duty of administration and enforcement of all the functions, powers, and duties of USCIS. USCIS is part of the United States Department of Homeland Security. The agency administers the Immigration and Nationality Act pursuant to 8 U.S.C. § 1103 and 8 C.F.R. § 2.1.

Factual Background

15. Plaintiff SNEHALBEN SHAILESHBHAI PATEL is a native and citizen of India.
16. On or about July 24, 2023, Plaintiff filed her application to adjust status, Form I-485, with USCIS. At the same time, she also filed a request for extension of her underlying U-3 nonimmigrant status (Form I-539).
17. The request for extension of status was filed approximately 2 months after Plaintiff’s U-3 status expired. In her request, she explained that she had failed to file timely due to difficulties with work and obtaining documents.
18. At the same time Plaintiff filed her application for extension of status, her father and brother filed the same applications with the same documentation.
19. On or about May 16, 2025, Plaintiff’s application for extension of status and green card applications were denied.

20. The denial notice indicated the reason for denial was failure to respond to a request for evidence for Form I-539 issued on March 7, 2025 that provided Plaintiff a date to respond until April 9, 2025.
21. Neither Plaintiffs, nor their attorney, received the Request for Evidence.
22. On or about June 2, 2025, USCIS received Plaintiffs' Forms I-290B, Motion to Reopen, requesting reopening of her applications. The motion included affidavits from both Plaintiff and her attorney attesting to the fact that they never received a copy of the Request for Evidence.
23. Since the submission of their Forms I-290B on June 2, 2025, Plaintiff has inquired multiple times regarding the status. To date, Plaintiff has only been told that the case is still being processed or under further review.
24. To date, USCIS has still not made a decision on the I-290B motions to reopen.
25. Plaintiff has received no communication regarding final adjudication of the motion to reopen, nor has she been instructed to provide any further information or documentation to USCIS.
26. Without final adjudication of her motions, Plaintiff is not permitted to obtain renewal of her work authorization and forced to wait in limbo for a decision without any lawful status- due to an error by USCIS in failing to properly send the Request for Evidence.

Request For Relief

27. Plaintiff re-alleges and incorporates by reference every allegation contained in the preceding paragraphs as if set forth fully herein.
28. The Defendants have willfully and unreasonably delayed and have refused to adjudicate the Forms I-290B Motion to Reopen.

29. The delay in adjudicating the motion is not attributable to the Plaintiff.
30. The Defendants owe Plaintiff a duty to adjudicate the I-290B Motion to Reopen and have unreasonably failed to perform that duty by not adjudicating the motion in the more than 8 months they have remained pending. This duty is owed under the Immigration & Nationality Act and its implementing regulations.
31. The delay is unreasonable per se.
32. Alternatively, or in addition thereto, the delay is unreasonable in light of the fact that the denial was due to USCIS error in failing to issue the Request for Evidence to Plaintiff and her attorney.
33. The delay is unreasonable in light of the fact that USCIS has been unable to adequately respond to any of the Plaintiff's inquiries into the motions.
34. By making numerous inquiries into the status of the applications, Plaintiff has exhausted any and all administrative remedies that may exist. No other remedy exists to resolve Defendants' delay and lack of ability or willingness to adjudicate the motions.

WHEREFORE, and in light of the foregoing, Plaintiff SNEHALBEN SHAILESHBHAI PATEL prays that this Honorable Court:

- A. Assume jurisdiction herein;
- B. Compel the Defendants and those acting under them to perform their duty or duties to adjudicate the Forms I-290B, Motion to Reopen;
- C. Grant such other and further relief, as the Court deems appropriate and just.

Dated: February 23, 2026

Respectfully Submitted,
Snehalben Shaileshbhai Patel

By: s/ Lauren E. McClure
One of her attorneys

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