

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No.:

ADAM ISHAG SHOUGAR,

Plaintiff,

v.

UR M. JADDOU, in her official capacity as Director of United States Citizenship and  
Immigration Services, and  
RENA BITTER, in her official capacity as Assistant Secretary of State for Consular Affairs,

Defendants.

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**COMPLAINT**

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**INTRODUCTION**

1. Plaintiff Adam Ishag Shougar (“Mr. Shougar”), a U.S. citizen who came to the United States as a refugee after fleeing war in Sudan, files this lawsuit seeking a final decision on his family reunification applications. Mr. Shougar, a Denver resident, has been waiting almost six years for the government to finish processing his applications to have his wife, stepdaughter (age 9), and son (age 7) join him in the United States. Given his family’s precarious living situation in the refugee camp where they are located, Mr. Shougar hopes to reunite with his wife and children as soon as possible and welcome them to a safe home in Colorado.

2. Under the Refugee Act, refugees like Mr. Shougar can apply for their spouse and unmarried minor children to join them in the United States through the “follow-to-join” family reunification process. The government must admit Mr. Shougar’s family to the United States as

refugees so long as he establishes the requisite family relationships, and the family members are admissible to the United States.

3. In September 2017, after arriving in the United States as a refugee, Mr. Shougar applied for his wife, his stepdaughter, and his son to join him by filing Form I-730 petitions for family reunification. In the years since, Mr. Shougar promptly responded to requests for additional documentation with evidence that confirms the family relationships.

4. Now, almost six years since filing the petitions, Mr. Shougar is still waiting for United States Citizenship and Immigration Services (“USCIS”) to complete the first stage of processing: verifying his relationship with his wife, stepdaughter, and son. When USCIS finally completes that step and conditionally approves the petitions, Mr. Shougar will have to wait even longer for the U.S. Department of State (“State Department”) to complete the additional stages of processing that it administers on behalf of USCIS, which has exclusive authority over the entire follow-to-join process.

5. Mr. Shougar and his family are harmed by each additional day that they spend apart. Instead of building a life with his family in Colorado, Mr. Shougar is limited to occasional visits to the refugee camp in Ethiopia where his wife and children are living.

6. Mr. Shougar’s separation from his family has been made even more difficult by the fact that he and his wife have since welcomed a new daughter and recently learned they are expecting another child. Although he is happy to be growing his family, Mr. Shougar laments that he may have to miss his new child’s birth and other milestones in his children’s lives because of his family’s continued separation.

### **THE PARTIES**

7. Plaintiff Adam Ishag Shougar is a U.S. citizen residing in Denver, Colorado. In 2017, Mr. Shougar filed family reunification applications for his wife, stepdaughter, and son, seeking to have them join him in the United States. He is still waiting for a final decision on these applications.

8. Defendant Ur M. Jaddou is sued in her official capacity as Director of USCIS, a component agency of the Department of Homeland Security (“DHS”). Defendant Jaddou directly oversees USCIS’s operations, including processing and adjudication of Mr. Shougar’s Form I-730 petitions and subsequent processing of his family reunification applications.

9. Defendant Rena Bitter is sued in her official capacity as Assistant Secretary of State for Consular Affairs, a component agency of the State Department. Defendant Bitter directly oversees all U.S. embassies, including the U.S. Embassy in Addis Ababa, Ethiopia, to which USCIS has delegated responsibility for certain stages of the processing of Mr. Shougar’s family reunification applications, including collecting DNA samples, conducting in-person interviews with the beneficiaries, collecting biometrics, arranging medical exams, and facilitating travel to the United States.

### **JURISDICTION AND VENUE**

10. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1361 (Mandamus Act). This Court has additional remedial authority under 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act).

11. Venue is proper in the District of Colorado under 28 U.S.C. § 1391(e)(1). Mr. Shougar resides in this District. Each Defendant is an agency of the United States or an officer of the United States sued in their official capacity. No real property is involved in this action.

### **FACTUAL BACKGROUND**

#### **Mr. Shougar's Path to Safety and Separation from Family**

12. Mr. Shougar arrived as a refugee in the United States in September 2015 and has lived in Colorado for about seven years.

13. Mr. Shougar is from the Darfur region in Sudan. He was forced to flee after his village was targeted during the war in Darfur. The attackers killed many people, including Mr. Shougar's half-brother, and the village was destroyed.

14. Around 2008, Mr. Shougar escaped to Sherkole Refugee Camp in Ethiopia, where he lived until he resettled in the United States.

15. After arriving in the camp, Mr. Shougar began the refugee resettlement process and his case was selected for resettlement by the United Nations High Commissioner for Refugees, a process that can take many years.

16. While attending school at the camp, Mr. Shougar met his wife, who had fled Sudan with her family. The two were friends for a few years before they began a relationship. As Mr. Shougar and his wife started spending more time together, Mr. Shougar enjoyed getting to know his wife's young daughter from a previous relationship.

17. By the time Mr. Shougar and his wife began dating, Mr. Shougar had not seen movement in his refugee resettlement case for years, and he felt ready to get married and have a family.

18. In 2015, Mr. Shougar and his wife got married, and he, his wife, and his stepdaughter began living together. Soon after, Mr. Shougar and his wife were excited to learn that they were expecting a child.

19. Mr. Shougar was overjoyed to be growing his family, but their time together would be short-lived. In summer 2015, he learned that his resettlement case was moving forward and that he would soon be able to travel to the United States.

20. Mr. Shougar was very sad to leave his family, but he made the difficult decision to travel to the United States without them because he knew he could better support them and could apply for family reunification after he resettled. He was especially upset to miss the birth of his son, as he had hoped to at least have the chance to hold him in his arms before leaving.

21. In the United States, Mr. Shougar struggled to adjust to life alone in a new country. He dreamed of the day that he would be reunited with his wife and stepdaughter, whom he views as his own child, and meet his son for the first time.

22. Mr. Shougar timely filed refugee follow-to-join petitions to enable his wife, stepdaughter, and son to come to the United States.

#### **Mr. Shougar's Right to Family Reunification**

23. Congress enacted a refugee's right to family reunification as part of the Refugee Act of 1980. *See* Pub. L. No. 96-212, 94 Stat. 102, 103 (1980).

24. Under the Refugee Act, a refugee who has been admitted to the United States has the right to bring their spouse and unmarried children to join them here as long as they establish the family connection and the spouse and the children are admissible. *See* 8 U.S.C.

§ 1157(c)(2)(A). This right extends to stepchildren who were under 18 years old at the time of the marriage between their parent and stepparent. *See* 8 U.S.C. § 1101(b)(1)(B).

25. The right to family reunification encompasses the entire follow-to-join application process, until such time as eligible beneficiaries are finally admitted to the United States as refugees.

26. DHS, through its administering agency USCIS, has “exclusive[]” authority to adjudicate and process refugee applications to completion, including for follow-to-join beneficiaries. 9 Foreign Affairs Manual 203.5-2(a)(1).

27. Refugee follow-to-join application processing includes both domestic and overseas processing stages. In countries like Ethiopia where USCIS does not maintain a designated field office, USCIS delegates responsibility for overseas processing of refugee follow-to-join beneficiaries to the State Department. Consular officials at the relevant U.S. embassy act as “agents of USCIS to facilitate . . . case processing abroad and to verify the eligibility of the approved beneficiaries.” 9 Foreign Affairs Manual 203.5-2(a)(6).

28. USCIS, as the delegating agency, retains responsibility for the entire follow-to-join application process, until such time as the beneficiary is either admitted to the United States as a refugee or the petition is finally denied.

#### ***Initial Eligibility Determination***

29. To begin the follow-to-join application process, a refugee who has been admitted to the United States must submit a Form I-730 petition and supporting evidence to USCIS for each eligible family member demonstrating that: (1) the petitioner entered the United States as a refugee; (2) the proposed beneficiary is an eligible spouse or unmarried minor child; and (3) the

petition is being filed within two years of the petitioner's admission to the United States as a refugee. *See* 8 C.F.R. § 207.7(d), (e).

30. USCIS may issue a Request for Evidence ("RFE") if in its view, the evidence initially submitted with the petition does not establish the beneficiary's eligibility. *See* 8 C.F.R. § 103.2(b)(8)(iv).

31. Under USCIS policy, USCIS may issue an RFE requesting that the petitioner submit DNA evidence to prove a family relationship, but submission of DNA is voluntary and can never be required. USCIS Policy Manual, Ch. 6 § B n.20, *available at* <https://www.uscis.gov/policy-manual/volume-1-part-e-chapter-6#footnotelink-20> (last visited July 7, 2023).

32. To complete DNA testing, the petitioner must have their DNA sample collected at an accredited testing facility in the United States, at their own expense. The testing facility then sends a DNA collection kit to the U.S. embassy where the beneficiary resides for collection of the beneficiary's DNA sample.

33. The U.S. embassy then contacts the beneficiary to schedule the beneficiary's DNA collection appointment, which the beneficiary must complete at their own expense. After the beneficiary attends the appointment and provides a DNA sample, the U.S. embassy sends the DNA sample back to the testing facility.

34. After receiving the beneficiary's DNA sample from the U.S. embassy, the testing facility completes the DNA test and sends the results to USCIS.

35. If USCIS determines that the I-730 petition is complete and timely, and that the petitioner and beneficiary appear to be eligible for this immigration benefit, USCIS must

conditionally approve the I-730 petition pending an admissibility determination of the petition's beneficiary.

36. Once USCIS conditionally approves the I-730 petition, it sends the petition to the State Department's National Visa Center.

***Overseas Processing and Admission to the United States***

37. The National Visa Center forwards the conditionally approved I-730 petition to the U.S. embassy for a determination on whether the beneficiary is admissible.

38. The U.S. embassy makes the admissibility determination by interviewing the beneficiary, collecting fingerprints if necessary, and reviewing results from a medical exam, security vetting, and background checks.

39. The State Department does not have authority to finally approve or deny a refugee's I-730 petition or to end the follow-to-join application process.

40. If the U.S. embassy determines that the beneficiary is not admissible or uncovers information suggesting that the I-730 petition should not have been conditionally approved, the embassy must return the I-730 petition to USCIS for reconsideration and possible denial. *See* 9 Foreign Affairs Manual 203.5-2(a)(6). This process is known as a consular return.

41. Following a consular return, USCIS may: (1) reaffirm the I-730 petition and send it back to the U.S. embassy, via the National Visa Center, for continued processing; (2) request that the petitioner provide additional evidence to prove eligibility; and/or (3) finally deny the I-730 petition.



42. On the other hand, if the U.S. embassy determines that the beneficiary is admissible, it will issue a “travel packet” and a boarding foil that will allow the beneficiary to travel to the United States.

43. The International Organization for Migration, which is contracted with the State Department, assists the approved beneficiary in arranging travel to the United States.

44. At any time before the beneficiary is finally admitted to the United States, Defendants may revoke a prior approval, cancel any scheduled travel to the United States, and/or return the petition to previous processing steps.

45. Medical exams, security checks, and the boarding foil all have expiration dates. If the beneficiary does not travel before the expiration date, the beneficiary will have to repeat these processing steps.

**The Delay in Adjudicating Mr. Shougar’s Applications for Family Reunification**

46. In September 2017, within two years of resettling in the United States, Mr. Shougar filed I-730 petitions and supporting evidence with USCIS seeking reunification with his wife, stepdaughter, and son.

47. In September 2017, Mr. Shougar received an initial notice for each I-730 petition from USCIS indicating that USCIS had received the petitions.

48. In May 2018, Mr. Shougar received an additional Notice of Receipt of each I-730 petition filing informing him that USCIS was reviewing his petitions.

49. Over two years later, in 2020, Mr. Shougar received RFEs from USCIS’s Los Angeles Asylum Office. The RFEs requested additional evidence to establish the relationship between Mr. Shougar and his wife, stepdaughter, and son.

50. The RFE issued for his son's petition informed Mr. Shougar that he could provide DNA test results establishing the relationship. The RFE advised that DNA testing was voluntary, and that Mr. Shougar was required to bear all associated costs.

51. Mr. Shougar timely submitted evidence in response to the RFEs in early 2021.

52. Mr. Shougar's response to the RFE issued for his son's petition also explained that Mr. Shougar had scheduled his appointment for DNA collection and that he would submit the DNA results to USCIS once available.

53. Soon after, Mr. Shougar had his DNA sample collected at an accredited testing facility.

54. The testing facility then sent the DNA collection kit to the U.S. Embassy in Addis Ababa, Ethiopia.

55. Although the next step was for the U.S. embassy to arrange for Mr. Shougar's son's DNA sample to be collected, neither Mr. Shougar, his family, nor his lawyer heard from the U.S. embassy about the case for approximately two years.

56. Mr. Shougar received notice from USCIS's Los Angeles Asylum Office that in February 2022, all three of his I-730 petitions were being transferred to USCIS's Asylum Vetting Center in Atlanta, Georgia.

57. In April 2023, the U.S. embassy in Addis Ababa finally scheduled the DNA collection appointment for Mr. Shougar's son. His wife and son made the long journey from the refugee camp to the embassy to attend the appointment.

58. The test results confirmed the father-son relationship and USCIS was promptly informed of the results.

59. To date, nearly six years after filing the I-730 petitions to reunify with his wife, stepdaughter, and son, Mr. Shougar continues to await the adjudication of the petitions and completion of the remaining steps in the follow-to-join process.

### **The Harms of Prolonged Family Separation**

60. The continued family separation has been hard on Mr. Shougar and his family. Mr. Shougar and his wife speak by phone as often as possible, but the poor phone reception and lack of internet connection in the camp make communication challenging.

61. Mr. Shougar finds it especially difficult that he can see his wife's and children's faces only on the occasions that they leave the camp and visit a town that has the internet connection required to place a video call. When he calls, Mr. Shougar's children try to grab the phone from their mother to talk to him and ask him when he will come back.

62. During their years apart, Mr. Shougar has been able to visit his family in Ethiopia only sparingly. When he visited for several months in 2018, Mr. Shougar was overjoyed to meet his son for the first time and spend time with his wife and stepdaughter.

63. During this visit, his wife became pregnant with their daughter, who was born in 2019.

64. Because Mr. Shougar's new daughter is not eligible for I-730 benefits, Mr. Shougar had to instead file and pay associated fees for an immigrant visa petition known as a Form I-130 petition.

65. Mr. Shougar was not able to visit his family again or meet his daughter until years later, when he again traveled to Ethiopia to spend time with his family.

66. For weeks after he returned to the United States in early 2023, his wife told him that the children were not eating properly because they were so upset by his absence.

67. During his visit, Mr. Shougar and his wife learned they are expecting another child due this summer. Mr. Shougar was very happy to find out the news, but worries that this child, too, will have to grow up without him.

68. If the baby is born before Defendants complete processing of Mr. Shougar's family reunification applications, Mr. Shougar will need to file an immigrant visa petition for this child, just as he did for his youngest daughter.

69. In this way, Defendants' delay in completing processing of Mr. Shougar's family reunification applications may cause cascading delays in the family's much hoped-for reunion.

70. Without Mr. Shougar, his wife and three children have endured hardship in the refugee camp. Even though Mr. Shougar's financial support provides the family with a crucial lifeline that enables them to sustain themselves, the camp frequently has shortages of essentials like clean water and firewood, and everyday life is still difficult.

71. Making matters worse, a few years ago the family's belongings were destroyed in a fire in the camp, which also claimed the life of their neighbor. Mr. Shougar continues to worry for his family's safety given the conditions in the camp.

72. When Mr. Shougar's son needed medical care for breathing issues he experienced following the fire, the family had to travel hundreds of miles to Addis Ababa so he could get treatment because the medical care offered in the camp was not sufficient.

73. Mr. Shougar's family's situation will soon become even more difficult. His wife's parents and siblings currently live in the camp, but they are close to completing the refugee

resettlement process themselves and are likely to leave the camp soon. Mr. Shougar is deeply concerned about his wife's safety once she and their children are left alone in the camp without the social support and protection of her family, particularly because his wife is pregnant and requires additional help.

74. As he has for the entirety of their separation, Mr. Shougar eagerly awaits the day he will reunite with his family in the United States. He looks forward to when his children will be able to get an education and to when his family will be able live together in a safe home.

**FIRST CAUSE OF ACTION**  
**Administrative Procedure Act ("APA")**

75. The foregoing allegations are repeated and incorporated as though fully set forth herein.

76. Defendants have a non-discretionary duty to make a final decision on Mr. Shougar's follow-to-join applications. *See* 5 U.S.C. § 555(b); 8 U.S.C. § 1157(c)(2); 8 C.F.R. § 207.7.

77. Defendants have violated the APA by failing to make a final decision on Mr. Shougar's follow-to-join applications within a reasonable time. *See* 5 U.S.C. § 555(b).

78. Mr. Shougar is entitled to an order compelling Defendants to promptly make a final decision on his follow-to-join applications. *See* 5 U.S.C. § 706(1).

**SECOND CAUSE OF ACTION**  
**Mandamus**

79. The foregoing allegations are repeated and incorporated as though fully set forth herein.

80. Defendants owe Mr. Shougar a non-discretionary duty to make a final decision on his follow-to-join applications. *See* 5 U.S.C. § 555(b); 8 U.S.C. § 1157(c)(2); 8 C.F.R. § 207.7.

81. Mr. Shougar has no other means to compel Defendants to perform the non-discretionary duty that Defendants owe him.

82. Mr. Shougar is entitled to a writ of mandamus under 28 U.S.C. §§ 1361 and 1651 and this Court's inherent equitable authority compelling Defendants to promptly make a final decision on his follow-to-join applications.

**THIRD CAUSE OF ACTION**  
**Fifth Amendment – Due Process**

83. The foregoing allegations are repeated and incorporated as though fully set forth herein.

84. Mr. Shougar, who is a United States citizen, has a statutorily created entitlement to a final decision on his follow-to-join applications. Defendants' delay in deciding Mr. Shougar's follow-to-join applications constitutes a deprivation of his protected interest without due process.

85. Defendants' delay is egregious and without any rational justification.

86. Defendants' conduct violates Mr. Shougar's due process rights protected by the Fifth Amendment of the Constitution.

**PRAYER FOR RELIEF**

WHEREFORE, Mr. Shougar respectfully requests that this Court:

1. Declare pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, that Defendants' delay in making a final decision on Mr. Shougar's follow-to-join applications is

unreasonable under the APA, 5 U.S.C. § 706(1), and a violation of his Fifth Amendment Due Process rights;

2. Issue an order that requires Defendants to make a final decision on Mr. Shougar's follow-to-join applications, *see* 5 U.S.C. § 706(1);

3. Issue a writ of mandamus, pursuant to 28 U.S.C. §§ 1361 and 1651, directing Defendants to promptly make a final decision on Mr. Shougar's follow-to-join applications;

4. Retain jurisdiction over this action and any attendant proceedings until Defendants have finally decided Mr. Shougar's follow-to-join applications, and have communicated the results of such decisions to Mr. Shougar and the Court;

5. Award Mr. Shougar attorneys' fees and costs pursuant to 28 U.S.C. § 2412; and

6. Award such other and further relief that the Court may deem just and proper.

Dated: July 7, 2023

Respectfully submitted,

*s/ Kimberly Grano*

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**Kimberly Grano**

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