FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SUKESH CHANDRA BARMAN, *Plaintiff - Appellant*, v. UNITED STATES OF AMERICA; REBECCA MALIUWELUR, *Defendants - Appellees*.	No. 24-464 D.C. No. 1:23-cv-00010 OPINION

Appeal from the District of the Northern Mariana Islands
Ramona V. Manglona, Chief District Judge, Presiding

Argued and Submitted June 22, 2026
Honolulu, Hawaii

Filed September 14, 2026

Before: N. Randy Smith, Eric D. Miller; and Anthony D. Johnstone, Circuit Judges.

Opinion by Judge Miller

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SUMMARY*

Immigration

Affirming the district court's dismissal for lack of subject-matter jurisdiction of Sukesh Barman's challenge to a decision of United States Citizenship and Immigration Services (USCIS) denying his application for a special immigration status for certain long-term residents of the Commonwealth of the Northern Mariana Islands (NM-1 status), the panel held that 48 U.S.C. § 1806(e)(6)(D) bars judicial review of USCIS's denials of such status.

Section 1806(e)(6)(D) bars review of "any decision of the Secretary of Homeland Security" on an application for NM-1 status and was enacted as part of the Northern Mariana Islands Long-Term Legal Residents Relief Act, Pub. L. No. 116-24, 113 Stat. 977 (2019).

Barman argued that § 1806(e)(6)(D) precludes judicial review of decisions made by the Secretary personally, not of decisions made by USCIS. The panel disagreed. If, as Barman conceded, a decision by USCIS is a decision of the Secretary for purposes of the provision that confers authority on the Secretary to adjudicate NM-1 applications, then it follows that a decision by USCIS must also be a decision of the Secretary for purposes of the judicial review provision.

The panel concluded that its interpretation was reinforced by the legal context in which the Relief Act was passed: Congress would have understood it was barring

* This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

review of decisions that the Secretary had long delegated. Case law involving a similar jurisdiction-stripping provision, 8 U.S.C. § 1252(a)(2)(B)(ii), also supported its conclusion. The Supreme Court and twelve courts of appeals assumed that a judicial-review bar that names only an agency head extends to the decisions of his delegates. Finally, the panel rejected Barman's invocation of the presumption in favor of reviewability of agency action because the statute is clear.

COUNSEL

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OPINION

MILLER, Circuit Judge:

The Northern Mariana Islands Long-Term Legal Residents Relief Act, Pub. L. No. 116-24, 113 Stat. 977 (2019), created a special immigration status for certain long-term residents of the Commonwealth of the Northern Mariana Islands. The Relief Act authorizes the Secretary of Homeland Security and the Attorney General to adjudicate applications for adjustment to that status, and it contains a jurisdiction-stripping provision that precludes judicial review of "any decision of the Secretary of Homeland Security or the Attorney General on an application" for that status. 48 U.S.C. § 1806(e)(6)(D). The question presented is whether that provision bars judicial review of denials made by United States Citizenship and Immigration Services (USCIS) in the exercise of authority delegated to it by the Secretary. We conclude that it does, so we affirm the district court's dismissal of this case for lack of subject-matter jurisdiction.

In 1976, Congress approved the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America. Pub. L. No. 94-241, § 1, 90 Stat. 263 (codified at 48 U.S.C. § 1801); *see Eche v. Holder*, 694 F.3d 1026, 1027 (9th Cir. 2012). Under the Covenant, citizens of the Northern Mariana Islands became citizens of the United States, but the Commonwealth's government "retained nearly exclusive control over immigration to the territory." *Eche*, 694 F.3d at 1027 (citing Covenant § 503(a), 90 Stat. at 268).

During the following decades, the Commonwealth's government "permitted large numbers of temporary 'guest

workers' to work in the island territory, primarily in the garment sector and other private industries." *Torres v. Barr*, 976 F.3d 918, 921 (9th Cir. 2020) (en banc) (quoting S. Rep. No. 110-324, at 4 (2008)). Those workers "lacked any U.S. immigration status," and "Congress grew increasingly concerned by what it saw as the 'ineffective border control[s]' of the territory." *Id.* (brackets in original) (quoting S. Rep. No. 110-324, at 3).

In 2009, Congress made federal immigration law applicable to the Northern Mariana Islands. Consolidated Natural Resources Act of 2008, Pub. L. No. 110-229, § 702, 122 Stat. 754, 854 (codified at 48 U.S.C. § 1806(a)(1)); *see id.* § 705, 122 Stat. at 867 (effective date); *Eche*, 694 F.3d at 1027. Under federal immigration law, temporary guest workers present without lawful status were subject to removal. *See* 8 U.S.C. § 1182(a)(6)(A); *Torres*, 976 F.3d at 922. Following that change, many Northern Mariana Islands residents "were granted humanitarian parole that allowed them to stay." 165 Cong. Rec. H4202 (daily ed. June 3, 2019) (statement of Del. Gregorio Sablan); *see* 8 U.S.C. § 1182(d)(5)(A); *In re Valdez*, 25 I. & N. Dec. 824, 826 n.1 (B.I.A. 2012); U.S. Citizenship & Immigr. Servs., USCIS Announces Extension of Parole for Immediate Relatives of U.S. Citizens (Dec. 13, 2016), https://perma.cc/SX46-PUU8. But that parole eventually expired. *See* Exec. Order No. 13767, § 11(d), 82 Fed. Reg. 8793, 8796 (Jan. 30, 2017); U.S. Citizenship & Immigr. Servs., Termination of the Categorical Parole Programs for Certain Individuals Present in the Commonwealth of the Northern Mariana Islands (CNMI) (Dec. 27, 2018), https://perma.cc/HWY8-YGTU.

As the end of parole left many long-term residents with no lawful status, Congress enacted the Relief Act, which amended 48 U.S.C. § 1806 and created a new "NM-1"

immigration status that authorizes qualifying individuals to live and work in the Northern Mariana Islands. The Relief Act outlines the eligibility requirements for NM-1 status, directs the Secretary to create an application process, and authorizes the Secretary and the Attorney General to adjudicate NM-1 adjustment-of-status applications. *See* 48 U.S.C. § 1806(e)(6)(A)–(C). The Relief Act also contains a jurisdiction-stripping provision, which states:

> Notwithstanding any other law, no court shall have jurisdiction to review any decision of the Secretary of Homeland Security or the Attorney General on an application under this paragraph or any other action or determination of the Secretary of Homeland Security or the Attorney General to implement, administer, or enforce this paragraph.

Id. § 1806(e)(6)(D).

The Relief Act does not contain an express delegation provision, but 6 U.S.C. § 112(b)(1) authorizes the Secretary to "delegate any of [his] functions to any officer, employee, or organizational unit of the Department [of Homeland Security]." And we have recognized that "[w]hen a statute delegates authority to a federal officer or agency, subdelegation to a subordinate federal officer or agency is presumptively permissible." *Frankl v. HTH Corp.*, 650 F.3d 1334, 1350 (9th Cir. 2011) (quoting *United States Telecom Ass'n v. FCC*, 359 F.3d 554, 565 (D.C. Cir. 2004)); *see Gonzales & Gonzales Bonds & Ins. Agency, Inc. v. United States Dep't of Homeland Sec.*, 107 F.4th 1064, 1076 (9th Cir. 2024). In 2003, the Secretary delegated to USCIS (then

named the Bureau of Citizenship and Immigration Services) the authority to "accept, process and adjudicate any application for any immigration benefit or service," with several exceptions not relevant here. *See* Dep't of Homeland Sec., Delegation No. 0150.1, § II(BB) (June 5, 2003).

In 2020, Sukesh Barman applied to USCIS for NM-1 status. The director of USCIS's Guam Field Office denied his application, determining that Barman had not "resided continuously and lawfully in the Commonwealth from November 28, 2009, through June 25, 2019," as required by the Relief Act. 48 U.S.C. § 1806(e)(6)(B)(iii). Barman sought administrative reconsideration, which was denied. Barman then challenged the denial in federal district court, seeking a "declaration that his application for NM-1 status met all the statutory criteria of eligibility" and a "mandatory injunction requiring [USCIS] to approve his application." The government moved to dismiss, arguing that the Relief Act's jurisdiction-stripping provision barred review of the denial. The district court agreed and granted the motion to dismiss. Barman now appeals. We review de novo a dismissal for lack of subject-matter jurisdiction. *Flaa v. Hollywood Foreign Press Ass'n*, 55 F.4th 680, 687 (9th Cir. 2022).

Barman raises only one issue on appeal. He acknowledges that section 1806(e)(6)(D) provides that "no court shall have jurisdiction to review any decision of the Secretary of Homeland Security . . . on an application" for NM-1 status. But, he says, the statute precludes judicial review only of decisions made by the Secretary personally, not of decisions made by USCIS in the exercise of the Secretary's delegated authority. We disagree.

Barman concedes, as he must, that the Relief Act permits the Secretary to delegate to USCIS the authority to adjudicate applications for NM-1 status. *See Frankl*, 650 F.3d at 1350; 6 U.S.C. § 112(b)(1). Barman also concedes that the Secretary's prior order validly delegated his NM-1 adjudicatory authority to USCIS.

Those concessions resolve this case. It is a basic principle of administrative law that a decision made by a delegate is, functionally, a decision made by the delegator. *See United States Telecom Ass'n*, 359 F.3d at 565 ("When an agency delegates authority to its subordinate, responsibility—and thus accountability—clearly remain with the federal agency."). Section 1806(e)(6) authorizes two officials to adjudicate NM-1 applications—the Secretary and the Attorney General—and it prohibits judicial review of decisions made by those officials. If, as Barman recognizes, a decision by USCIS is a decision of the Secretary for purposes of the provision that confers authority on the Secretary, then it follows that a decision by USCIS must also be a decision of the Secretary for purposes of the provision that bars judicial review. Because a decision of USCIS is a "decision of the Secretary of Homeland Security," it is covered by section 1806(e)(6)(D).

Our interpretation is reinforced by considering the legal context in which the Relief Act was passed. Years earlier, the Secretary had delegated his authority to adjudicate "any application for any immigration benefit or service" to USCIS. Dep't of Homeland Sec., Delegation No. 0150.1, § II(BB) (2003). "Congress legislates against the backdrop of existing law," *Parker Drilling Mgmt. Servs., Ltd. v. Newton*, 587 U.S. 601, 611 (2019) (quoting *McQuiggin v. Perkins*, 569 U.S. 383, 398 n.3 (2013)), so in enacting section 1806(e)(6)(D)'s jurisdiction-stripping provision,

Congress would have understood that it was barring review of decisions that the Secretary had long delegated.

Case law involving a similar jurisdiction-stripping provision further supports our conclusion. As relevant here, 8 U.S.C. § 1252(a)(2)(B)(ii) precludes judicial review of "any . . . decision or action of the Attorney General or the Secretary of Homeland Security the authority for which is specified under this subchapter to be in [their] discretion." Like section 1806(e)(6)(D), that provision refers only to the Attorney General and the Secretary and does not expressly address decisions made by their delegates. But in *Poursina v. USCIS*, we applied the statute to bar review of USCIS's decision not to issue a visa applicant a "national-interest waiver" of his inadmissibility. 936 F.3d 868, 875 (9th Cir. 2019). By statute, the authority to issue such a waiver is vested in the Secretary. 8 U.S.C. § 1153(b)(2)(B)(i); *see* 6 U.S.C. § 557. After determining that the decision to issue a waiver was discretionary, we held that section 1252(a)(2)(B)(ii)—which, to repeat, refers only to a "decision or action of the Attorney General or the Secretary"—"strips federal courts of jurisdiction to review *USCIS's decision* to deny a national-interest waiver to Poursina." *Id.* at 873 (emphasis added).

The Supreme Court and every other court of appeals to have considered the scope of section 1252(a)(2)(B)(ii)—that is, every court of appeals but the Federal Circuit—have likewise applied it to bar judicial review of decisions made by USCIS or its statutory predecessors. *See, e.g.*, *Bouarfa v. Mayorkas*, 604 U.S. 6, 9, 19 (2024) (USCIS decision to revoke prior approval of visa petition); *Bernardo ex rel. M & K Eng'g, Inc. v. Johnson*, 814 F.3d 481, 483–84 (1st Cir. 2016) (same); *Nouritajer v. Jaddou*, 18 F.4th 85, 87, 89 (2d Cir. 2021) (per curiam) (same); *Geda v. Director*, *USCIS*,

126 F.4th 835, 841, 847 (3d Cir. 2025) (USCIS decision to place green-card application on hold); *Polfliet v. Cuccinelli*, 955 F.3d 377, 379, 384 (4th Cir. 2020) (USCIS decision to revoke prior approval of visa petition); *Ghanem v. Upchurch*, 481 F.3d 222, 223 (5th Cir. 2007) (same); *Mehanna v. USCIS*, 677 F.3d 312, 313–14 (6th Cir. 2012) (same); *El-Khader v. Monica*, 366 F.3d 562, 563 (7th Cir. 2004) (same); *Abdelwahab v. Frazier*, 578 F.3d 817, 821 (8th Cir. 2009) (same); *Green v. Napolitano*, 627 F.3d 1341, 1343–44 (10th Cir. 2010) (same); *Brasil v. Sec'y, Dep't of Homeland Sec.*, 28 F.4th 1189, 1191 (11th Cir. 2022) (per curiam) (USCIS decision to deny national-interest waiver); *iTech U.S., Inc. v. Renaud*, 5 F.4th 59, 60, 62 (D.C. Cir. 2021) (USCIS decision to revoke prior approval of visa petition).

Barman argues that those cases "focused entirely on whether the decision at issue was 'discretionary'" and did not address the question directly analogous to the one raised in this appeal: whether "a discretionary decision 'exercised through a designee' still fell under 'the discretionary-decision bar.'" *See, e.g.*, *Polfliet*, 955 F.3d at 379 n.2, 384 (noting that the Secretary delegated his discretionary authority to USCIS and assuming without analysis that delegated discretionary decisions are unreviewable). He is correct, of course, that "unstated assumptions on non-litigated issues are not precedential holdings binding future decisions." *Sakamoto v. Duty Free Shoppers, Ltd.*, 764 F.2d 1285, 1288 (9th Cir. 1985). Even so, we find it significant that the "unstated assumption" of the Supreme Court and twelve courts of appeals—that a judicial-review bar that names only the head of an agency extends to decisions made by his delegates—is consistent with our conclusion in this case.

Finally, Barman invokes the presumption of reviewability of administrative action, which dictates that "when a statutory provision 'is reasonably susceptible to divergent interpretation, we adopt the reading that accords with traditional understandings and basic principles: that executive determinations generally are subject to judicial review.'" *Guerrero-Lasprilla v. Barr*, 589 U.S. 221, 229 (2020) (quoting *Kucana v. Holder*, 558 U.S. 233, 251 (2010)). But for the reasons we have already explained, the statute is not reasonably susceptible to divergent interpretation. "Because the statute is clear, we have no reason to resort to the presumption of reviewability." *Patel v. Garland*, 596 U.S. 328, 347 (2022); *see Mullin v. Doe*, 146 S. Ct. 2121, 2134 (2026).

AFFIRMED.