

JUL 06 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JESUSA G. CURVA,

Plaintiff - Appellant,

v.

THE UNITED STATES CITIZENSHIP &  
IMMIGRATION SERVICES (CIS); F.  
GERARD HEINAUER, Director of CIS  
Nebraska Service Center; MICHAEL  
AYTES, Acting Deputy Director of CIS;  
JANET NAPOLITANO, Secretary of the  
Department of Homeland Security; ERIC  
H. HOLDER, Jr., Attorney General,  
Attorney General of the United States,

Defendants - Appellees.

No. 10-55367

D.C. No. 2:09-cv-06086-DDP-E

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Dean D. Pregerson, District Judge, Presiding

Submitted June 26, 2012\*\*

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: SCHROEDER, HAWKINS, and GOULD, Circuit Judges.

Jesusa G. Curva appeals from the district court's order granting summary judgment to the defendants. We review de novo the district court's determination regarding jurisdiction. *Robinson v. United States*, 586 F.3d 683, 685 (9th Cir. 2009).

The district court lacked jurisdiction over this action. The United States Citizenship and Immigration Services' denial of Curva's application to adjust status is nonfinal, and she has not exhausted her administrative remedies. *See Cabaccang v. U.S. Citizenship & Immigration Servs.*, 627 F.3d 1313, 1316-18 (9th Cir. 2010). We therefore vacate the district court's order of January 11, 2010, and remand with instructions to dismiss the action for lack of jurisdiction.

**VACATED and REMANDED with instructions.**