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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NANH VONGSAYADETH,

Petitioner,

v.

ERIC H. HOLDER, JR., Attorney General,

Respondent.

No. 11-71486

Agency No. A099-634-044

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 7, 2015**
Honolulu, Hawaii

Before: TASHIMA, N.R. SMITH, and FRIEDLAND, Circuit Judges.

Nanh Vongsayadeth appeals from the Board of Immigration Appeals' ("BIA") decision denying her application for adjustment of status. The BIA found that Vongsayadeth was eligible for adjustment of status under 8 U.S.C. § 1255, but

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

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

denied adjustment as a matter of discretion. Under 8 U.S.C. § 1252(a)(2)(B)(i), we lack jurisdiction to review a discretionary denial of adjustment of status.

In general, “the decision to deny [an] application for adjustment of status is a discretionary determination, and is therefore unreviewable.” *Bazua-Cota v. Gonzales*, 466 F.3d 747, 748 (9th Cir. 2006) (per curiam) (citing 8 U.S.C. § 1252(a)(2)(B)(I)). While “[t]his court retains jurisdiction over petitions for review that raise colorable constitutional claims or questions of law,” a petitioner may not attack a discretionary decision simply by phrasing her arguments as a legal challenge. *Id.* at 748-49. Vongsayadeth challenges only the BIA’s determination that her testimony was not credible. A credibility determination is a finding of fact, *Rizk v. Holder*, 629 F.3d 1083, 1087 (9th Cir. 2011), and “courts lack jurisdiction to review factual determinations underlying adjustment-of-status decisions,” *Carrillo de Palacios v. Holder*, 708 F.3d 1066, 1071 (9th Cir. 2013) (quoting *Morales-Izquierdo v. Dep’t of Homeland Sec.*, 600 F.3d 1076, 1084 (9th Cir. 2010)). Because Vongsayadeth has not presented a legal challenge to the BIA’s discretionary denial of adjustment of status, we lack jurisdiction.

We therefore dismiss the petition for review.

DISMISSED.