

FILED

JUN 17 2016

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

AVTAR SINGH,

Plaintiff - Appellant,

v.

US DEPARTMENT OF HOMELAND
SECURITY, an agency of the United
States Government and ROBERT M.
COWAN, Director of National Benefits
Center, U.S. Citizenship & Immigration
Services,

Defendants - Appellees.

No. 14-35088

D.C. No. 2:13-cv-00223-RAJ

MEMORANDUM*

KULVINDER SINGH,

Plaintiff - Appellant,

v.

UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES, an agency
of the United States Government,

Defendant - Appellee.

No. 14-35161

D.C. No. 3:12-cv-05474-RAJ

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

Appeals from the United States District Court
for the Western District of Washington
Richard A. Jones, District Judge, Presiding

Argued and Submitted June 10, 2016
Seattle, Washington

Before: EBEL,^{**} PAEZ, and BYBEE, Circuit Judges.

Given that both Avtar Singh and Kulvinder Singh are in removal proceedings, the governing regulations require that they pursue their adjustment applications before the Immigration Judge presiding over their removal hearings. See 8 C.F.R. §§ 245.2(a), 1245.2 (a)(1)(i). The district court in both cases correctly concluded that there is no statutory or regulatory duty that would support mandamus relief against USCIS. There is also no merit to Avtar Singh's procedural due process argument.

The district court's dismissal of Avtar Singh's case against DHS for failure to state a claim upon which relief may be granted is **AFFIRMED**. The district court's grant of summary judgment to USCIS in Kulvinder Singh's case is **AFFIRMED**.

AFFIRMED.

^{**} The Honorable David M. Ebel, Senior Circuit Judge for the U.S. Court of Appeals for the Tenth Circuit, sitting by designation.