

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 5 2018

FOR THE NINTH CIRCUIT

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

JOHN ZILEI ZHONG,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA; et al.,

Defendants - Appellees.

No. 17-55549

D.C. No. 2:17-cv-00498-JFW-
FFM

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
John F. Walter, District Judge, Presiding

Submitted December 18, 2017**

Before: WALLACE, SILVERMAN, and BYBEE, Circuit Judges.

John Zilei Zhong appeals pro se from the district court judgment dismissing for lack of subject matter jurisdiction Zhong's action brought under the Administrative Procedure Act ("APA") challenging his suspension from practice before the Internal Revenue Service ("IRS"). We have jurisdiction under 28 U.S.C.

* 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).

§ 1291. We review de novo, *Gallo Cattle Co. v. U.S. Dep't of Agric.*, 159 F.3d 1194, 1196 (9th Cir. 1998), and we affirm.

The district court properly dismissed Zhong's action for lack of subject matter jurisdiction because the IRS's expedited suspension of Zhong's right to practice is not a final agency decision. *See id.* at 1198-99, 1200 (holding that there is no subject matter jurisdiction under the APA in the absence of "final agency action" and explaining when an agency action is "final"); *see also* 31 C.F.R. §§ 10.60, 10.82(g); *Navajo Nation v. Dep't of the Interior*, 2017 WL 5986567, at *19 (9th Cir. Dec. 4, 2017) (concluding that "[section] 704's 'final agency action' limitation applies only to APA claims").

AFFIRMED.