

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 23 2026

FOR THE NINTH CIRCUIT

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

YONG CHEN,

Plaintiff - Appellant,

v.

JOSEPH B. EDLOW; UNITED STATES
CITIZENSHIP AND IMMIGRATION
SERVICES; MARGARET ROSENAST,
Portland Field Office Director;
MARKWAYNE MULLIN, Secretary of
Homeland Security,

Defendants - Appellees,

MARTHA MEDINA-MALTES, Portland
Field Office Director,

Defendant.

No. 26-32

D.C. No.

6:25-cv-00156-MTK

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Mustafa T. Kasubhai, District Judge, Presiding

Submitted September 17, 2026**
Portland, Oregon

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

Before: FRIEDLAND and DE ALBA, Circuit Judges, and LASNIK, District Judge.***

Appellant-Plaintiff Yong Chen appeals the district court’s order granting the motion to dismiss of Appellees-Defendants Joseph B. Edlow, Director of the U.S. Citizenship and Immigration Services (USCIS); USCIS; Margaret Rosenast, the Portland Field Office Director of the USCIS; and Markwayne Mullin, Secretary of Homeland Security. As the parties are familiar with the facts, we do not recount them here. We have jurisdiction pursuant to 28 U.S.C. § 1291. We affirm.

“[W]e review de novo whether the district court had jurisdiction.” *Chairez v. Mayorkas*, 168 F.4th 1227, 1229 (9th Cir. 2026).

1. 8 U.S.C. § 1252 does not preserve jurisdiction over Plaintiff’s Administrative Procedure Act (APA) and constitutional law claims, and the district court did not have jurisdiction over these claims.

The APA does not apply when, as here, “statutes preclude judicial review.” *Chairez*, 168 F.4th at 1231 (quoting 5 U.S.C. § 701(a)(1)).

Section 1252(a)(2)(B)(i) “precludes judicial review of factual findings that underlie a denial of relief” under 8 U.S.C. § 1255. *Patel v. Garland*, 596 U.S. 328, 331–33 (2022); *see also Wilkinson v. Garland*, 601 U.S. 209, 221–22 (2024) (explaining

*** The Honorable Robert S. Lasnik, United States District Judge for the Western District of Washington, sitting by designation.

that credibility findings are factual determinations precluded from judicial review under Section 1252(a)(2)(B)(i)). Plaintiff's APA claims challenge USCIS's factual findings underlying the denial of his adjustment-of-status application pursuant to Section 1255, so the district court did not have jurisdiction to review the claims.

Nor would the district court have had jurisdiction over Plaintiff's APA claims if they presented pure questions of law or mixed questions of law and fact. The same is true of Plaintiff's constitutional claims. Such claims may be reviewed by an appropriate *court of appeals* when raised in a petition for review. *See* 8 U.S.C. § 1252(a)(2)(D) (stating that Section 1252(a)(2)(B) shall not be construed to preclude "review of constitutional claims or questions of law raised upon a petition for review filed with an appropriate court of appeals"); *Chairez*, 168 F.4th at 1235 ("Nothing in the text of [Section] 1252 . . . can be read to provide *district courts* with jurisdiction, in the context of an APA challenge, to review infirmities underlying otherwise unreviewable, discretionary decisions."); *see also Wilkinson*, 601 U.S. at 222 (clarifying that, while factual findings are unreviewable pursuant to Section 1252(a)(2)(B), mixed questions of law and fact are reviewable by the court of appeals pursuant to Section 1252(a)(2)(D)). Nor is a petition for review before us. *See Chairez*, 168 F.4th at 1235 n.5 ("Section 1252 establishes that a petition for review is a vehicle reserved for a challenge to a final order of removal, and no such order is before us.").

Accordingly, Section 1252 stripped the district court of jurisdiction to hear Plaintiff's APA and constitutional claims. "This is so even if [Plaintiff] had lawful status and was not seeking 'relief from removal,'" *Nakka v. U.S. Citizenship & Immigr. Servs.*, 111 F.4th 995, 1015 (9th Cir. 2024), and even if an immigration judge could not review the decision. *Garcia v. U.S. Citizenship & Immigr. Servs.*, 146 F.4th 743, 748 (9th Cir. 2025).

2. Any error in the district court's failure to address whether Plaintiff was entitled to mandamus relief is harmless. District courts have "original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff." 28 U.S.C. § 1361. "Mandamus is an extraordinary remedy" and is available only if "(1) the individual's claim is clear and certain; (2) the official's duty is nondiscretionary, ministerial, and so plainly prescribed as to be free from doubt[;] and (3) no other adequate remedy is available." *Patel v. Reno*, 134 F.3d 929, 931 (9th Cir. 1997).

Focusing on the second prong of the *Patel* test, USCIS's decision was discretionary rather than "nondiscretionary." *See Chairez*, 168 F.4th at 1231; *see also Elkins v. Moreno*, 435 U.S. 647, 667 (1978) (concluding that "adjustment of status is a matter of grace, not right"). Plaintiff was therefore not entitled to mandamus relief.

AFFIRMED.