

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 16 2020

FOR THE NINTH CIRCUIT

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

RAYMOND CROSS,

No. 19-15929

Plaintiff-Appellant,

D.C. No. 4:18-cv-00220-CKJ

v.

MEMORANDUM*

U.S. DEPARTMENT OF THE INTERIOR,

Defendant-Appellee.

Appeal from the United States District Court
for the District of Arizona
Cindy K. Jorgenson, District Judge, Presiding

Submitted September 8, 2020**

Before: TASHIMA, SILVERMAN, and OWENS, Circuit Judges.

Raymond Cross appeals pro se from the district court's judgment dismissing for lack of subject matter jurisdiction his action challenging a determination by the Bureau of Indian Affairs Superintendent regarding the number of tribal signatories needed to initiate a secretarial election. We have jurisdiction under 28 U.S.C.

* 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).

§ 1291. We review de novo. *Hajro v. U.S. Citizenship & Immigration Servs.*, 811 F.3d 1086, 1098 (9th Cir. 2016). We affirm.

The district court properly dismissed Cross’s action for lack of subject matter jurisdiction under the Administrative Procedure Act because the Bureau’s calculation of signatures is not a final agency decision. *See Bennett v. Spear*, 520 U.S. 154, 178 (1997) (for an agency action to be final, it “must mark the consummation of the agency’s decisionmaking process” and must be “one by which rights or obligations have been determined, or from which legal consequences will flow” (internal quotation marks omitted)); *Rattlesnake Coal. v. EPA*, 509 F.3d 1095, 1104 (9th Cir. 2007) (federal courts lack subject matter jurisdiction to hear claim if plaintiff does not identify final agency action).

Cross’s motions for oral argument (Docket Entry Nos. 19 and 21) are denied. Cross’s motion for supplementation of the judicial record (Docket Entry No. 23) is granted.

AFFIRMED.