

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 11-cv-01158-REB-KMT

EDGAR NIEBLA MARTINEZ,

Plaintiff-petitioner,

v.

JANET NAPOLITANO, Secretary, U.S. Department of Homeland Security,  
ALEJANDRO MAYORKAS, Director, U.S. Citizenship and Immigration Services,  
ROBERT M. COWAN, Director, National Benefits Center, U.S. Citizenship and  
Immigration Services,

Defendants-respondents.

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**FINAL JUDGMENT**

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Pursuant to Fed. R. Civ. P. 58(a), and the orders entered in this case, **Final Judgment** is entered.

A. Pursuant to the **Order Granting Motion To Dismiss** [#27] entered by Judge Robert E. Blackburn on March 28, 2012, which order is incorporated by reference,

**IT IS ORDERED** as follows:

1. That under FED. R. CIV. P. 12(b)(1), the **Defendants' Partial Motion To Dismiss Pursuant To Fed. R. Civ. P. 12(b)(1)** [#17] filed July 26, 2011, is **GRANTED**;
2. That the plaintiff-petitioner's claim challenging the February 26, 2003, decision of the Immigration and Naturalization Service to deny Family Unity benefits to the plaintiff-petitioner is **DISMISSED** for lack of jurisdiction and because it is barred by the applicable statute of limitations;
3. That the plaintiff-petitioner's claim seeking an injunction enjoining the

enforcement of an order of removal is **DISMISSED** for lack of jurisdiction; and

4. That defendant-respondents John Morton, Director of Immigration and Customs Enforcement, and John Longshore, Field Office Director for the Immigration and Customs Enforcement Denver Office, are **DROPPED** from this action and the caption shall be **AMENDED** accordingly.

B. Pursuant to the **Order Granting Motion To Dismiss** [#49] entered by Judge Robert E. Blackburn on March 25, 2013, which order is incorporated by reference,

**IT IS ORDERED** as follows:

1. That under FED. R. CIV. P. 12(b)(1), the **Defendants' Motion To Dismiss Based on Mootness, Cross-Motion for Summary judgment Pursuant To FED. R. CIV. P. 56(a), and Opposition To Plaintiff's Motion for Summary Judgment** [#40] filed October 10, 2012, is **GRANTED** on the basis that the controversy presented in this case now is moot;

2. That the motion for summary judgment contained in the **Defendants' Motion To Dismiss Based on Mootness, Cross-Motion for Summary judgment Pursuant To FED. R. CIV. P. 56(a), and Opposition To Plaintiff's Motion for Summary Judgment** [#40] filed October 10, 2012, is **DENIED** as moot;

3. That the parties' **Joint Motion for Determination** [#48] filed January 14, 2013, is **GRANTED** based on the determinations made in the order;

4. That **JUDGMENT IS ENTERED** in favor of the defendants, Janet Napolitano, Alejandro Mayorkas, and Robert M. Cowan, and against the plaintiff, Edgar Niebla Martinez;

5. That **JUDGMENT IS ENTERED** in favor of former defendants John Morton

and John Longshore on the bases cited in the Court's **Order Granting Motion To Dismiss** [#27] filed March 28, 2012; and

6. That the defendants are **AWARDED** their costs, to be taxed by the clerk of the court under Fed. R. Civ. P. 54(d)(1) and D.C.COLO.LCivR 54.1.

DATED at Denver, Colorado, this 27<sup>th</sup> day of March, 2013.

FOR THE COURT:

JEFFREY P. COLWELL, CLERK

By: s/Edward P. Butler  
Edward P. Butler  
Deputy Clerk