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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SOE MIN HAN,

 Plaintiff,

 v.

MONICA E. TORO (Sacramento
Field Office Director and/or
District Director); and
UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES,

 Defendants.

No. 2:16-cv-01257-JAM-KJN

**ORDER DENYING DEFENDANTS' MOTION
TO REMAND**

I. FACTUAL ALLEGATIONS AND PROCEDURAL BACKGROUND

This case arises from an immigration hearing before the United States Citizenship and Immigration Services ("USCIS").¹ After USCIS denied Plaintiff Soe Min Han's naturalization application, Han filed this action seeking review by this Court of that denial. Pet., ECF No. 1, at 1. Defendants Monica E. Toro and USCIS move for remand. Mot., ECF No. 8, at 1.

¹ This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g). The hearing was scheduled for October 4, 2016.

1 Defendants want the agency, rather than this Court, to reopen and
2 readjudicate Han's naturalization application. See id.

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4 I. OPINION

5 Defendants have offered no legal basis for remand. Section
6 1421(c) makes clear that a district court "shall," at a
7 petitioner's request, "conduct a hearing de novo on the [denied
8 naturalization] application." See Immigration and Nationality
9 Act, 8 U.S.C. § 1421 (2012). Defendants argue that a sister
10 statute, 8 U.S.C. § 1447(b), gives this Court discretion to
11 remand, but that provision is inapposite: that statute applies
12 only when the agency has not made a decision. See Immigration
13 and Nationality Act, 8 U.S.C. § 1447 (2012) ("[i]f there is a
14 failure to make a determination...[the district court] may either
15 determine the matter or remand"). Yet, here, the USCIS has twice
16 denied Han's application. See Opp., ECF No. 10, at 4.

17 Defendants' admission that they move "in an abundance of
18 caution," Mot. at 1, further compels this Court to deny remand.
19 See U.S. Const. art. III; Flast v. Cohen, 392 U.S. 83, 96 (1968)
20 ("federal courts will not give advisory opinions") (internal
21 citation and quotation marks omitted). In sum, under § 1421(c)
22 this Court has exclusive jurisdiction to review de novo Han's
23 denied naturalization application.

24 Finally, in his opposition to the remand motion, Han
25 requests that this Court make "clear" in its Order that "the
26 [USCIS] is not free to proceed" with an administrative hearing.
27 See Surreply, ECF No. 12-1, at 3. Han's "request" is
28 procedurally improper and he must file a motion for injunctive

1 relief if he wants this issue resolved.

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II. ORDER

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This Court DENIES Defendants' Motion to Remand and DENIES Plaintiff's request to make clear that the Defendants cannot reopen and reconsider Han's case.

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IT IS SO ORDERED.

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Dated: October 5, 2016

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JOHN A. MENDEZ,
UNITED STATES DISTRICT JUDGE