

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-60717
Summary Calendar

JOHN K. HUNTER; ALPHONSO HUNTER;
FRANK HUNTER & SON CONSTRUCTION,
INC., also known as Frank Hunter
& Son,

Plaintiffs-Appellants,

versus

UNITED STATES OF AMERICA; MAX
RICHARDS; SVERDRUP-GILBANE; C B & D
GROUP; DOUG GILLIS; PHILIP N.
FERRARI; JOHN A. SINK,

Defendants-Appellees.

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Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:94-CV-515WS
- - - - -

September 14, 1998

Before REAVLEY, WIENER and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

John K. Hunter, Alphonso Hunter, and Frank Hunter & Sons, Inc., (Hunter) appeal from the district court's grant of summary judgment to the defendants on Hunter's claim pursuant to Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971). On appeal, Hunter argues that the district court erred by refusing to allow discovery in order to enable Hunter to offer proof that its

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Bivens claim was not barred by the applicable statute of limitations, and that the Bivens claim was not preempted by the Contract Disputes Act. Before even reaching the questions of limitations and preemption, however, the district court ruled that all of Hunter's claims, including the Bivens claim, were barred by the doctrines of collateral estoppel and law of the case. Hunter does not address this independent basis for the district court's summary judgment. The issue is therefore waived. See Capital Concepts Properties 85-I v. Mutual First, Inc., 35 F.3d 170, 176 (5th Cir. 1994).

AFFIRMED.