

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1015
Summary Calendar

BEVERLY A. GOSHN,
JUDY G. COX MOSESMAN,

Plaintiffs-Appellants,

v.

FEDERAL DEPOSIT INSURANCE CORPORATION, as successor to the
FEDERAL SAVINGS & LOAN INSURANCE CORPORATION and as Manager
of the FEDERAL SAVINGS & LOAN INSURANCE CORPORATION
RESOLUTION FUND and as Receiver for VERNON SAVINGS AND LOAN
ASSOCIATION, FSA, ET AL.,

Defendants,

FEDERAL DEPOSIT INSURANCE CORPORATION, Etc.,
Defendant-Appellee.

On Petition for Review of a Final Determination of the
Federal Deposit Insurance Corporation
7:90 CV 026 K

August 26, 1993

Before KING, DAVIS and WEINER, Circuit Judges.

PER CURIAM:*

Petitioners Beverly A. Goshn and Judy G. Cox Mosesman seek review of a final deposit insurance determination made by the Federal Deposit Insurance Corporation (FDIC), pursuant to 12 U.S.C. § 1821(f)(4). We dismiss the petition for review.

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

On January 18, 1990, the FDIC issued a final determination letter denying petitioners' request for separate insurance coverage for two deposit accounts in the Vernon Savings and Loan Association, FSA. Petitioners filed this action for review of that determination in the United States District Court for the Northern District of Texas on April 12, 1990. Petitioners later amended their complaint to include alleged claims under the Federal Tort Claims Act (FTCA). Shortly before trial on both the requested review of the FDIC's final determination and the claims under the FTCA, the district court severed the two matters and transferred the deposit insurance claim to this court, pursuant to 12 U.S.C. § 1821(f)(4).

This court has determined that the plain language of subsection 1821(f)(4) provides for review of final administrative decisions denying federal deposit insurance by the courts of appeals, not the district courts. See Nimon v. Resolution Trust Corp., 975 F.2d 240, 244 (5th Cir. 1992). Thus, the district court properly transferred petitioners' request for review to this court.

However, the plain language of subsection 1821(f)(5) (entitled "Statute of limitations") provides that any request for review of a final insurance determination must be filed with the appropriate court of appeals no later than 60 days after such determination is ordered. Because this court has already recognized that the plain language of subsection 1821(f)(4) gives the courts of appeals jurisdiction to review final insurance

determinations, it follows that the plain language of subsection 1821(f)(5), which prescribes a 60-day statute of limitations, must also apply.

Because petitioners' request for review was filed in the district court 84 days after the FDIC's final insurance determination, petitioners' request for review was not timely filed. We therefore DISMISS the petition for review.