

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-10446
Summary Calendar

DEBRA WALKER, ET AL.,

Plaintiffs-Appellees,

versus

CITY OF MESQUITE, ET AL.,

Defendants,

THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
(3:85-CV-1210-R)

(October 11, 1994)

Before JONES, BARKSDALE, and BENAVIDES, Circuit Judges.

EDITH H. JONES, Circuit Judge:*

The issue presented to this court is whether Rule 52(a) of the Federal Rules of Civil Procedure requires a district court to enter findings of fact and conclusions of law supporting the vacation of a consent decree.¹ Rule 52(a) declares "[i]n all

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

¹ Respondent's contention that this court does not have jurisdiction over this appeal is without merit. As we previously held in Walker v. U.S. Dept. of Housing and Urban Dev., 912 F.2d 819, 828 (5th Cir. 1990) (hereinafter "Walker II"), a judicial modification of a consent decree confers appellate jurisdiction under section 1292(a)(1) to review the modification. Vacation of a consent decree

actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon" Rule 52(a) further provides that "in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its actions." These findings of fact and conclusions of law provide the basis for appellate review. Westwego Citizens for Better Gov't v. City of Westwego, 872 F.2d 1201, 1203 (5th Cir. 1989).

The district court's vacation of the consent decree, in place since 1987, can only be supported by specific findings of fact justifying the vacation and conclusions of law. No such findings or conclusions were made. The only explanation or justification for vacating the consent decree given by the district court is the statement from the bench that "the people in West Dallas have not received what DHA bargained for, not received what the Plaintiffs bargained for." Such a conclusory declaration is insufficient under Rule 52(a). This court has once previously remanded this case to the district court for further findings of fact. Walker II, 912 F.2d at 823. Because we are unable to perform any meaningful review of this case with virtually no findings of fact or conclusions of law to review, we again remand this case to the district court to make all necessary findings of fact and conclusions of law supporting the vacation. See Westwego, 872 F.2d at 1204.

likewise confers appellate jurisdiction.