

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-20034
Summary Calendar

STEWART TITLE GUARANTY COMPANY,

Plaintiff-Appellant,

VERSUS

UNITED STATES DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
(CA-H-93-0293)

(September 27, 1994)

Before SMITH, EMILIO M. GARZA, and PARKER, Circuit Judges.

PER CURIAM:*

We affirm, essentially for the reasons given by the district court in its order of dismissal entered on July 16, 1993. There is no jurisdiction in the district court because, as that court concluded, the plaintiff, Stewart Title Guaranty Company ("Stewart"), sued the wrong defendant, the Department of Housing and Urban Development ("HUD"), rather than the proper party, the

* Local Rule 47.5.1 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 Pursuant to that rule, the court has determined that this opinion should not be published.

United States.

The suit is for injunctive and declaratory relief in regard to alleged violations by Stewart of the False Claims Act ("FCA"). Stewart seeks a declaration that it is not liable under the FCA.

The underlying suit under the FCA was brought not by HUD, but by the United States through the Department of Justice. Under 31 U.S.C. § 3730(a), only the Attorney General, and not HUD, has authority to bring an FCA action. But, as the district court reasoned, a declaratory action against the United States is barred because there is no express waiver of sovereign immunity. Moreover, to the extent that Stewart argues that there is jurisdiction under the Administrative Procedure Act, there plainly is no final agency action subject to review.

AFFIRMED.