

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21-5281**September Term, 2021****1:21-cv-02422-UNA****Filed On: June 15, 2022**

Larry E. Starks, Jr.,

Appellant

v.

United States Sentencing Commission and
United States of America,

Appellees

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BEFORE: Katsas and Rao, Circuit Judges, and Sentelle, Senior Circuit Judge

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the brief filed by appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the district court's September 27, 2021 dismissal order and November 30, 2021 order denying the motion to alter or amend the judgment be affirmed. The Declaratory Judgment Act is not an independent source of jurisdiction. C&E Servs., Inc. of Washington v. D.C. Water & Sewer Auth., 310 F.3d 197, 201 (D.C. Cir. 2002). Additionally, the Administrative Procedure Act ("APA") waives sovereign immunity only for challenges to a "final agency action for which there is no other adequate remedy in a court." 5 U.S.C. § 704. The Sentencing Commission's action does not constitute an agency action because the Sentencing Commission is not an "agency" within the meaning of the APA. See Wash. Legal Found. v. U.S. Sentencing Comm'n, 17 F.3d 1446, 1450 (D.C. Cir. 1994).

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Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Daniel J. Reidy
Deputy Clerk