

FEB 19 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RUDOLPH GEORGE STANKO,
Individually and on behalf of similarly
situated citizens,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA, c/o
Attorney General of the United States,

Defendant - Appellee.

No. 11-35965

D.C. No. 1:11-cv-00116-RFC

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Richard F. Cebull, Chief Judge, Presiding

Submitted February 11, 2013**

Before: FERNANDEZ, TASHIMA, and WARDLAW, Circuit Judges.

Rudolph George Stanko appeals from the district court's judgment
dismissing for lack of subject matter jurisdiction his petition for declaratory relief

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision
without oral argument. See Fed. R. App. P. 34(a)(2).

and certification under 28 U.S.C. §2403(a). We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Schnabel v. Lui*, 302 F.3d 1023, 1029 (9th Cir. 2002). We affirm.

The district court properly dismissed for lack of jurisdiction because Stanko failed to show a real case or controversy sufficient to warrant the issuance of a declaratory judgment. *See Am. Rivers v. Nat'l Marine Fisheries Serv.*, 126 F.3d 1118, 1123 (9th Cir. 1997) (“A federal court does not have jurisdiction to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it.” (citations and internal quotation marks omitted)); *Levin Metals Corp. v. Parr-Richmond Terminal Co.*, 799 F.2d 1312, 1315 (9th Cir. 1986) (“The Declaratory Judgment Act is not an independent source of federal subject matter jurisdiction.”).

AFFIRMED.