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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>MICHAEL CAREY; et al.,</p> <p>Defendants - Appellants,</p>
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Nos. 07-16526  
08-16309

D.C. No. CV-05-02176-MCE

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Morrison C. England, Jr., District Judge, Presiding

Submitted March 18, 2009\*\*

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Michael Carey and Leone Carey appeal pro se from the district court's summary judgment in an action brought by the United States to reduce to judgment unpaid income taxes, penalties, and interest assessed against appellants and to

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

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

foreclose tax liens against certain real property. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Trantina v. United States*, 512 F.3d 567, 570 n.2 (9th Cir. 2008), and we affirm.

The district court properly granted summary judgment to the United States because the Careys failed to controvert Certificates of Assessments and Payments demonstrating that the tax assessments were properly made. *See Hughes v. United States*, 953 F.2d 531, 540 (9th Cir. 1992) (explaining that Certificates of Assessments and Payments are “probative evidence in and of themselves and, in the absence of contrary evidence, are sufficient to establish that . . . assessments were properly made.”); *see also* 26 U.S.C. § 6322 (providing that tax liens arise at the time of assessment and continue until the liability is satisfied).

Contrary to the Careys’ assertions, the bankruptcy court ruled that the Careys’ tax liability was non-dischargeable due to their acts of filing fraudulent returns and wilful tax evasion. *See United States v. Carey (In Re Carey)*, Case No. 04-29060-B-7, April 25, 2005 Memorandum Decision (Bankr. E.D. Cal. 2005).

Appellants’ remaining contentions are unpersuasive.

Appellants’ “Motion to Have Question Certified to the Supreme Court of United States,” filed on October 14, 2008, is denied as unnecessary.

**AFFIRMED.**