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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CANDACE LEHMAN; ESTATE OF JOSHUA LEHMAN; LINDA BLOUNT; CAMILIA LEHMAN, Plaintiffs - Appellees, v. TOM ROBINSON; ROBERT ROBINSON, Defendants - Appellants.	No. 05-15636 D.C. No. CV-02-00651-ECR MEMORANDUM [*]

ON REMAND FROM THE UNITED STATES
SUPREME COURT

Before: WALLACE and McKEOWN, Circuit Judges, and CUDAHY, [***] Senior Circuit Judge.

This case was remanded to us by the United States Supreme Court following the Court's decision in *Scott v. Harris*, 550 U.S. 372 (2007). Following *Scott*, we asked for supplemental briefing from the parties. In *Scott*, the Court cautioned that

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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 Honorable Richard D. Cudahy, Senior United States Circuit Judge for the Seventh Circuit, sitting by designation.

we are not required to accept a non-movant's version of events when it is "clearly contradict[ed]" by a video in the record and the accuracy of the video is not disputed. *Scott*, 550 U.S. at 378. Unlike the court of appeals in *Scott*, we reviewed the video that captured the events at issue in this case. The video did not "clearly contradict[]" the plaintiffs' version of events.

Because the video does not clearly contradict the version of events recounted by the plaintiffs, and for the reasons stated in our prior memorandum disposition, *Lehman v. Robinson*, 228 Fed. Appx. 697, 2007 WL 1119328 (9th Cir. April 16, 2007), the district court's denial of Robinson and Tygard's motion for summary judgment based on qualified immunity is **AFFIRMED.**