

JUL 23 2010

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SHARI JEAN WELSH; SAM WELSH,</p> <p>Plaintiffs - Appellants,</p> <p>v.</p> <p>UNITED STATES ARMY,</p> <p>Defendant - Appellee.</p>
---

No. 09-15435

D.C. No. 5:08-cv-03599-RS

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Richard Seeborg, District Judge, Presiding\*\*

Submitted June 29, 2010\*\*\*

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

Shari Jean and Sam Welsh appeal pro se from the district court’s order  
dismissing their Federal Tort Claims Act (“FTCA”) action alleging injuries from

---

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

\*\* The parties consented to proceed before Judge Seeborg, who was a  
magistrate judge while the action was pending in the district court. *See* 28 U.S.C.  
§ 636(c).

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

exposure to carbon tetrachloride at their residence on a former army base. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Terbush v. United States*, 516 F.3d 1125, 1128 (9th Cir. 2008), and we affirm.

The district court properly dismissed the action for lack of subject matter jurisdiction because the United States is immune from liability under the discretionary function exception to the FTCA. *See* 28 U.S.C. § 2680(a); *Terbush*, 516 F.3d at 1129 (explaining that the discretionary function exception applies if the challenged action involves an “element of judgment or choice,” and is “grounded in social, economic, or political policy” (citations omitted)).

The Welshs’ remaining contentions are unpersuasive.

**AFFIRMED.**