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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HANA HILSEN RATH and OLIVER
HILSEN RATH,

Plaintiffs - Appellants,

and

NANA HILSEN RATH; et al.,

Plaintiffs,

v.

THE SWISS CONFEDERATION; et al.,

Defendants - Appellees.

No. 07-17127

D.C. No. CV-07-02782-WHA

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
William H. Alsup, District Judge, Presiding

Submitted October 19, 2010 **

Before: O'SCANNLAIN, TALLMAN and BEA, Circuit Judges.

* 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).

Hana Hilsenrath and Oliver Hilsenrath appeal pro se the district court's judgment dismissing their action against the Swiss Confederation and Swiss government officials alleging violation of their rights under the United States Constitution. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Af-Cap, Inc. v. Chevron Overseas (Congo) Ltd.*, 475 F.3d 1080, 1085-86 (9th Cir. 2007) , and we affirm.

The Hilsenraths alleged that the Swiss Confederation, the Federal Attorney General of Switzerland and an employee of the Swiss Attorney General violated the Hilsenraths' constitutional rights when they froze the Hilsenraths' Swiss bank assets during the course of a criminal investigation into allegedly illicit financial dealings. The district court properly dismissed the action for lack of subject matter jurisdiction because the Swiss government and its employees are immune from this action under the Foreign Sovereign Immunities Act, 28 U.S.C. §§ 1330, 1602 et seq. ("FSIA") and the Hilsenraths did not establish the applicability of any of the FSIA's exceptions to sovereign immunity. *See Security Pacific Nat. Bank v. Derderian*, 872 F.2d 281, 285 (9th Cir. 1989) (if the "claim does not fall within one of the exceptions, the court cannot entertain the action" and it must dismiss the action against the foreign state).

AFFIRMED.