

FEB 04 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICHARD MATHIS, Special
Administrator of the Estate of Joe
Robinson Mathis and as Trustee of the Joe
Robinson Mathis and Eleanor Margherite
Mathis Trust, AKA Joe R. Mathis; JAMES
MATHIS; ANTHONY MATHIS,
individually,

Plaintiffs - Appellees,

v.

COUNTY OF LYON, a Political
Subdivision of the State of Nevada,

Defendant,

And

RICHARD GLOVER, individually,

Defendant - Appellant.

No. 14-15912

D.C. No. 2:07-cv-00628-APG-
GWF

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Andrew P. Gordon, District Judge, Presiding

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

Submitted February 2, 2015**
San Francisco, California

Before: TALLMAN and RAWLINSON, Circuit Judges, and MURPHY, District Judge.***

Richard Glover brings an interlocutory appeal, after cross-motions for summary judgment, from the district court's decision denying him qualified immunity on Plaintiffs-Appellees' Fourteenth Amendment procedural due process claim. We have jurisdiction under 28 U.S.C. § 1291 (2012), *Mitchell v. Forsyth*, 472 U.S. 511, 530 (1985), and we affirm.

In *Mathis v. County of Lyon*, 633 F.3d 877, 878-79 (9th Cir. 2011), we previously considered whether the district court erred in holding, subsequent to a motion to dismiss, that Appellant Glover was not entitled to the defense of qualified immunity. We found no error when we held that “the failure to give notice and an opportunity to respond before Glover took the items from the house violated due process” and that “[t]he right to notice and hearing prior to a public official's administrative taking of property is clearly established.” *Id.* at 879

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

*** The Honorable Stephen Joseph Murphy III, United States District Judge for the Eastern District of Michigan, sitting by designation.

(citing *Fuentes v. Shevin*, 407 U.S. 67, 82, 97 (1972) and *United States v. James Daniel Good Real Prop.*, 510 U.S. 43, 53 (1993)).

Because it is an undisputed fact that Glover gave no notice or an opportunity for a pre-deprivation hearing before removing personal property from Plaintiffs-Appellees' deceased father's home, our decision in *Mathis* controls, and Glover is not entitled to qualified immunity.

AFFIRMED.