

FILED

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

STANTON M. BUCH; SHARON A.
STINUS,

Plaintiffs-Appellants,

v.

UNITED STATES OF AMERICA,

Defendant-Appellee.

No. 16-35287

D.C. No. 3:15-cv-00136-HRH

MEMORANDUM*

Appeal from the United States District Court
for the District of Alaska
H. Russel Holland, District Judge, Presiding

Submitted August 17, 2017**
Anchorage, Alaska

Before: GRABER, CLIFTON, and M. SMITH, Circuit Judges.

Plaintiffs Stanton M. Buch and Sharon A. Stinus timely appeal the district court's dismissal of their claims under the Federal Tort Claims Act, 28 U.S.C. §§ 2671–2680, as barred by the doctrine announced in Feres v. United States, 340

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

U.S. 135 (1950). Reviewing de novo, Whittaker Corp. v. United States, 825 F.3d 1002, 1005 (9th Cir. 2016), we affirm.

Plaintiffs challenge the correctness of the Supreme Court's decision in Feres. Because the Supreme Court has not overruled Feres, we must follow it. See, e.g., State Oil Co. v. Khan, 522 U.S. 3, 20 (1997) ("[I]t is [the Supreme] Court's prerogative alone to overrule one of its precedents."); Kingman Reef Atoll Invs., L.L.C. v. United States, 541 F.3d 1189, 1196 (9th Cir. 2008) ("[I]n the absence of any Supreme Court decision overruling [an earlier Supreme Court precedent], we must follow the Supreme Court precedent that directly controls, leaving to the Court the prerogative of overruling its own prior decisions." (internal quotation marks omitted)); see also Costo v. United States, 248 F.3d 863, 869 (9th Cir. 2001) ("[W]e are bound to follow this well-worn path [of Feres].").

AFFIRMED.