

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 22 2016

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

KIMBERLY JANE ALFRIEND; et al.,

Plaintiffs - Appellants,

v.

U.S. DISTRICT COURT FOR THE
NORTHERN DISTRICT OF
CALIFORNIA; et al.,

Defendants - Appellees.

No. 14-15347

D.C. No. 3:11-cv-05046-DWM

MEMORANDUM*

JOSE J. GARCIA; et al.,

Plaintiffs - Appellants,

v.

U.S. DISTRICT COURT FOR THE
NORTHERN DISTRICT OF
CALIFORNIA; et al.,

Defendants - Appellees.

No. 14-15349

D.C. No. 4:12-cv-04504-DWM

Appeal from the United States District Court
for the Northern District of California

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

Donald W. Molloy, Senior District Judge, Presiding

Submitted March 17, 2016**
San Francisco, California

Before: BYBEE and N.R. SMITH, Circuit Judges and HELLERSTEIN,*** Senior District Judge.

The only claims surviving on appeal are against the United States District Court for the Northern District of California and its judges (collectively “Federal Defendants”).¹ The district court dismissed these claims on the basis of sovereign immunity.

Federal Defendants have sovereign and judicial immunity.² *See Block v. North Dakota, ex rel. Bd. of Univ. & Sch. Lands*, 461 U.S. 273, 287 (1983) (“The basic rule of federal sovereign immunity is that the United States cannot be sued at all without the consent of Congress.”); *Stump v. Sparkman*, 435 U.S. 349, 355–56 (1978) (finding that judges have judicial immunity and “are not liable to civil actions for their judicial acts, even when such acts are in excess of their jurisdiction, and are alleged to have been done maliciously or corruptly”) (internal

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

*** The Honorable Alvin K. Hellerstein, Senior District Judge for the U.S. District Court for the Southern District of New York, sitting by designation.

¹ Plaintiffs moved to dismiss the other defendants and their motion was granted.

² Federal Defendants’ Request for Judicial Notice is GRANTED.

quotation marks omitted). “Any waiver of immunity must be ‘unequivocally expressed,’ and any limitations and conditions upon the waiver ‘must be strictly observed and exceptions thereto are not to be implied.’” *Hodge v. Dalton*, 107 F.3d 705, 707 (9th Cir. 1997) (quoting *Lehman v. Nakshian*, 453 U.S. 156, 160–61 (1981)). Because Plaintiffs have failed to establish that Federal Defendants waived either sovereign or judicial immunity, we do not have jurisdiction to review Plaintiffs’ appeal.

DISMISSED.