

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

NOV 30 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

ELOISE HAYES; ANTHONY HAYES,

Plaintiffs - Appellees,

v.

TOBY BYRD; JEFF WINKLER,

Defendants - Appellants.

No. 05-56844

D.C. No. CV-04-03032-AHM

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
A. Howard Matz, District Judge, Presiding

Argued and Submitted August 8, 2007
Pasadena, California

Before: KOZINSKI and RAWLINSON, Circuit Judges, and BAER**, Senior
District Judge.

Because a material factual dispute existed, the district court denied
Appellants' summary judgment motion seeking qualified immunity. In this

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

** The Honorable Harold Baer, Jr., Senior U.S. District Judge for the
Southern District of New York, sitting by designation.

circumstance, we lack jurisdiction. *See Collins v. Jordan*, 110 F.3d 1363, 1370 (9th Cir. 1997), *as amended*.

DISMISSED.