

JUN 30 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RADUGA USA CORPORATION,
NIKOLAI ROMANOVSKIY;
VLADLENA YAKOVLEVA,

Plaintiffs - Appellants,

v.

UNITED STATES DEPARTMENT OF
STATE; et al.,

Defendants - Appellees.

No. 07-55140

D.C. No. CV-04-00996-BTM

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Barry T. Moskowitz, District Judge, Presiding

Argued and Submitted May 12, 2008
Pasadena, California

Before: SCHROEDER, SILVERMAN, and BERZON, Circuit Judges.

Nikolai Romanovskiy and Vladlena Yakovleva, natives and citizens of
Russia, along with Raduga USA Corporation, an American corporation whose
president and sole shareholder is Romanovskiy, appeal from the dismissal of their

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

complaint against various United States officials and agencies. As the complaint sought to challenge the government's refusal to grant visas to Romanovskiy and Yakovleva, the district court determined that judicial review was precluded by the doctrine of consular nonreviewability. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

It is well established that a consular official's decision to grant or deny a visa to an individual alien – absent a cognizable constitutional claim raised by a U.S. citizen – is not subject to judicial review. *See Li Hing of Hong Kong, Inc. v. Levin*, 800 F.2d 970, 971 (9th Cir. 1986). That the embassy in this instance denied the visas after being directed to do so by the Department of Homeland Security does not alter the result: we reject Appellants' contention that Congress created an exception to the rule of consular nonreviewability by giving the DHS Secretary "the authority to refuse visas in accordance with law." 6 U.S.C. § 236(b)(1).

We also decline Appellants' invitation to consider whether the reason given for the visa denial was facially legitimate and bona fide, as this case does not present a scenario in which the visa decision infringes upon the constitutional rights of American citizens. *Cf. Kleindienst v. Mandel*, 408 U.S. 753, 762, 770 (1972). Appellants suggest in a footnote that the visa denial at issue here implicates Raduga USA Corporation's right to procedural due process. The

requirements of procedural due process, however, attach only to the deprivation of constitutionally protected liberty and property interests. *See Board of Regents v. Roth*, 408 U.S. 564, 569 (1972). Appellants have not attempted to explain, in their opening or reply brief, what the corporation's protected interest was or how it was deprived by DHS's action. Appellants therefore have failed properly to raise a cognizable constitutional interest.

AFFIRMED.