NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE M. GONZALEZ and JEFFREY DEAN, Plaintiffs - Appellants, v. STEPHEN MAYBERG; et al., Defendants - Appellees.	No. 09-56326 D.C. No. 2:07-cv-06248-CBM-MLG MEMORANDUM[*]

Appeal from the United States District Court
for the Central District of California
Consuelo B. Marshall, Senior District Judge, Presiding

Submitted September 22, 2010[**]

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

The district court properly dismissed the appellants' claims under the Fair

Labor Standards Act ("FLSA") because the defendants are immune under the

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

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

Eleventh Amendment. *See Alden v. Maine*, 527 U.S. 706, 758 (1999) (state immune under the Eleventh Amendment from action brought under the FLSA). The district court also properly dismissed the appellants' claims under the Fourteenth Amendment because the defendants in their official capacities enjoyed Eleventh Amendment immunity and in their individual capacities were entitled to qualified immunity. *See Holley v. California Dep't of Corrections*, 599 F.3d 1108, 1111 (9th Cir. 2010) (suits against state officials in their official capacities barred by the Eleventh Amendment); *Mueller v. Auker*, 576 F.3d 979, 990 (9th Cir. 2009) (recognizing that qualified immunity is appropriate where plaintiff has not alleged any constitutional violation).

The district court properly dismissed the appellants' claim for an order prohibiting the defendants from intimidating and harassing them because both appellants advised the court that they no longer reside at ASH. *See Wilson v. Nevada*, 666 F.2d 378, 381-83 & n.5 (9th Cir. 1982).

Appellants' remaining contentions are unpersuasive.

AFFIRMED.