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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BRENDA K. BEAL,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>UNITED STATES OF AMERICA,</p> <p>Defendant - Appellee.</p>

No. 09-55135

D.C. No. 2:05-cv-01278-AHM-AJW

MEMORANDUM*

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

Submitted November 16, 2010**

Before: TASHIMA, BERZON, and CLIFTON, Circuit Judges.

Brenda K. Beal appeals pro se from the district court’s judgment awarding her damages on her claim under the Federal Tort Claims Act (“FTCA”). We have jurisdiction pursuant to 28 U.S.C. § 1291. We review for clear error the district

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

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

court's damages determination. *Shaw v. United States*, 741 F.2d 1202, 1205 (9th Cir. 1984). We affirm.

The district court did not clearly err in its calculation of damages because its award of \$35,000 was not so disproportionate to the evidence as to shock the conscience. *See Yako v. United States*, 891 F.2d 738, 745 (9th Cir. 1989) (looking to relevant state's case law in reviewing an award of damages); *Johnson v. Stanhiser*, 72 Cal. App. 4th 357, 361 (1999) (appellate court may interfere with trier of fact's damages determination "only where the sum awarded is so disproportionate to the evidence as to suggest that the verdict was the result of passion, prejudice, or corruption, or where the award is so out of proportion to the evidence that it shocks the conscience").

Beal's remaining contentions are unpersuasive.

AFFIRMED.