

May 4, 2015

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

L.A. DAVIS; SARAH DAVIS, husband
and wife, d/b/a D&D Equipment,

Plaintiffs - Appellants,

v.

SECRETARY UNITED STATES
DEPARTMENT OF THE AIR FORCE,

Defendant - Appellee.

No. 14-2142
(D.C. No. 2:13-CV-00982-WJ-CG)
(D. New Mexico)

ORDER AND JUDGMENT*

Before **GORSUCH**, **McKAY**, and **BACHARACH**, Circuit Judges.

The district court dismissed this action under the Federal Tort Claims Act, holding in part that the FTCA's time limits are jurisdictional and not subject to equitable tolling. During the pendency of this appeal, the Supreme Court has held in *United States v. Wong*, Nos. 13-1074, 13-1075, 2015 WL 1808750 (U.S. Apr. 22, 2015), that the FTCA's time limits are nonjurisdictional and subject to equitable

* The Court has determined that oral argument would not materially aid our consideration of the appeal. *See* Fed. R. App. P. 34(a)(2)(C); 10th Cir. R. 34.1(G). Thus, we have decided the appeal based on the briefs. Our order and judgment does not constitute binding precedent except under the doctrines of law of the case, *res judicata*, and collateral estoppel.

tolling. In light of the Supreme Court's decision in *Wong*, the parties agree that this case should be remanded to the district court for further proceedings. We agree. The action is remanded to the district court for further proceedings in light of the Supreme Court's decision in *Wong*.

Entered for the Court

Robert E. Bacharach
Circuit Judge