

United States Court of Appeals  
for the Fifth Circuit

---

No. 23-40316  
Summary Calendar

---

United States Court of Appeals  
Fifth Circuit

**FILED**

April 2, 2024

Lyle W. Cayce  
Clerk

AUSTIN D. BIRDOW,

*Plaintiff—Appellant,*

*versus*

ISAAC KWARTENG, *Medical Director,*

*Defendant—Appellee.*

---

Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 2:21-CV-102

---

Before JOLLY, ENGELHARDT, and DOUGLAS, *Circuit Judges.*

PER CURIAM:\*

Austin D. Birdow, Texas prisoner # 02900272, filed a 42 U.S.C. § 1983 suit against Dr. Isaac Kwarteng, Medical Director of the McConnell Unit where Birdow is housed, complaining that Dr. Kwarteng had been deliberately indifferent to his serious medical needs when Birdow sought treatment for a laceration on his tongue. The district court determined that

---

\* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 23-40316

Dr. Kwarteng was entitled to qualified immunity because Birdow failed to show a genuine issue of material fact as to whether Dr. Kwarteng acted with deliberate indifference to Birdow's serious medical needs and granted the doctor's motion for summary judgment. *See Pratt v. Harris Cnty., Tex.*, 822 F.3d 174, 180 (5th Cir. 2016).

Birdow reiterates his claims and asserts that the district court erred by granting the motion for summary judgment. We review de novo the district court's ruling on the motion for summary judgment. *Nickell v. Beau View of Biloxi, LLC*, 636 F.3d 752, 754 (5th Cir. 2011).

The nature of Birdow's allegations against Dr. Kwarteng is a challenge to the medical judgment he exercised when treating and accessing Birdow's tongue injury, which does not give rise to a constitutional violation. *See Gobert v. Caldwell*, 463 F.3d 339, 346 (5th Cir. 2006). The district court did not err by granting Dr. Kwarteng's motion for summary judgment and denying Birdow's cross motion for summary judgment. *See FED. R. CIV. P.* 56(a).

Accordingly, the district court's judgment is AFFIRMED.