

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 15-14039
Non-Argument Calendar

D.C. Docket No. 5:14-cv-00294-MTT-MSH

JERRICK ATKINSON,

Plaintiff - Appellant,

versus

COMMISSIONER, GEORGIA DEPARTMENT OF CORRECTIONS,
WARDEN, MACON STATE PRISON,
BRANDON THOMAS,
CO I- CERT, Macon State Prison,
CAROL FOWLER,
Intake, ID Supervisor, Macon State Prison,

Defendants - Appellees.

Appeal from the United States District Court
for the Middle District of Georgia

(February 14, 2017)

Before HULL, MARCUS, and EDMONDSON, Circuit Judges.

PER CURIAM:

In this Eighth Amendment case for an alleged painful injury, we vacate the grant of summary judgment for Defendant Thomas. Viewed in the light most favorable to Plaintiff, the evidence shows that Plaintiff's arm could be observed to be already in a sling at the time of the occurrence underlying the claim, Plaintiff gave spoken notice to the Defendant officer about Plaintiff's recent shoulder surgery, and Defendant said expressly that he cared "nothing about" Plaintiff's shoulder before setting on Plaintiff. In the light of this evidence and the other now-assumed circumstances of this case, we conclude that a jury could find for Plaintiff on this record.

VACATED and REMANDED.