

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

February 27, 2023

Lyle W. Cayce
Clerk

No. 22-50445

ROGELIO CARLOS, III; MYRNA CARLOS,

Plaintiffs—Appellants,

versus

M.D. WILLIAM VANNESS,

Defendant—Appellee.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:21-CV-401

Before ELROD, HAYNES, and WILLETT, *Circuit Judges.*

PER CURIAM:*

This case stems from a surgery that unfortunately resulted in Rogelio Carlos's paralysis. Various parties were sued, but this appeal addresses only the severed malpractice lawsuit against the remote neuromonitoring physician, William VanNess. In the district court, the only expert evidence against Dr. VanNess was provided by Dr. Sclabassi, himself a neuromonitoring physician. The district court concluded that Dr.

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

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Sclabassi's testimony, while establishing a violation of the standard of care, could not establish that Dr. VanNess's violation of that standard of care caused Mr. Carlos's paralysis. It accordingly granted summary judgment.¹

We have carefully considered the briefs, relevant evidence, and oral arguments in this case. Having reviewed that information, we conclude that the summary judgment was not erroneously granted. **AFFIRMED.**

¹ The surgery resulted in fractures to Mr. Carlos's vertebrae. Dr. Sclabassi alleged that if Dr. VanNess had advised the surgeon sooner of abnormal electrical signals, the surgeon would have been able to rectify the situation. However, he also admitted that the appropriate medical person to address the question of causation is a neurosurgeon, which is not his speciality.