

**United States Court of Appeals**  
**For the Eighth Circuit**

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No. 15-1948

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Jason Harris

*Plaintiff - Appellant*

v.

United States of America

*Defendant - Appellee*

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Appeal from United States District Court  
for the Eastern District of Arkansas - Helena

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Submitted: May 2, 2016

Filed: May 13, 2016

[Unpublished]

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Before LOKEN, BYE, and KELLY, Circuit Judges.

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PER CURIAM.

Federal inmate Jason Harris brought an action under the Federal Tort Claims Act alleging that, after he injured his finger in a cell door at the Forrest City Medium Federal Correctional Institution, an emergency room physician recommended tendon repair within two weeks, yet his scheduled consultation with an offsite orthopaedist

was not until 18 days later. After a bench trial, the district court<sup>1</sup> entered judgment in favor of the United States, concluding that Harris presented “no evidence to show that the delay was caused by any of the Defendant’s employees, or that it affected [the orthopaedist’s] diagnosis.” Harris appeals.

Harris’s sole argument for reversal is that the district court erred in applying the medical negligence standard of care in the Arkansas Medical Malpractice Act, see Ark. Code Ann. § 16-114-202, rather than the standard for ordinary negligence. However, the asserted error did not affect Harris’s substantial rights. See Fed. R. Civ. P. 61. Before trial, the district court determined that the negligence asserted by Harris was within the court’s comprehension as a matter of common knowledge, and therefore the Arkansas Medical Malpractice Act did not require Harris to prove negligence by means of expert testimony. See Ark. Code Ann. § 16-114-206. After trial, the court concluded that Harris failed to prove that any employee of defendant caused the delayed diagnosis, so the court did not reach the question of what standard of care would apply if a medical provider had caused the delay.

Accordingly, we affirm. See 8th Cir. R. 47B.

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<sup>1</sup>The Honorable Jerome T. Kearney, United States Magistrate Judge for the Eastern District of Arkansas, to whom the case was referred for final disposition by consent of the parties pursuant to 28 U.S.C. § 636(c).