

MAR 06 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MELVIN MUNIR,

Plaintiff - Appellee,

v.

THOMAS, Sergeant,

Defendant - Appellant,

and

MARTINEZ, Correctional Officer; et al.,

Defendants.

No. 09-15727

D.C. No. 2:05-cv-01996-MCE-
EFB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, Jr., District Judge, Presiding

Submitted February 21, 2012**

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

Thomas, a housing sergeant at California Medical Facility, appeals from the

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

district court's order denying him qualified immunity in plaintiff' Munir's 42 U.S.C. § 1983 action alleging deliberate indifference to serious medical needs. We dismiss for lack of appellate jurisdiction.

We lack jurisdiction to consider this interlocutory appeal because “an order denying qualified immunity on the ground that a genuine issue of material fact exists is not a final, immediately appealable order.” *Maropulos v. County of Los Angeles*, 560 F.3d 974, 975 (9th Cir. 2009) (per curiam), citing *Johnson v. Jones*, 515 U.S. 304, 314-15 (1995). The district court denied qualified immunity to Thomas after determining that there were genuine disputes of material fact as to whether Thomas was deliberately indifferent to Munir's medical needs, and that those facts, if proven, would establish a violation of Munir's clearly established Eighth Amendment rights. Accordingly, we dismiss this appeal for lack of jurisdiction.

DISMISSED.