

United States Court of Appeals
For the Eighth Circuit

No. 21-3158

Justin R. Eoff

Plaintiff - Appellant

v.

Keith Mallett, CO, Cummins Unit, ADC

Defendant - Appellee

Patrick Pierre, Sergeant, Cummins Unit, ADC (originally named as Pierre)

Defendant

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

Submitted: November 28, 2022

Filed: December 2, 2022

[Unpublished]

Before COLLOTON, GRUENDER, and GRASZ, Circuit Judges.

PER CURIAM.

Arkansas inmate Justin Eoff appeals the judgment entered by the district court¹ following a favorable jury verdict in his 42 U.S.C. § 1983 action asserting claims of excessive force. On appeal, he challenges the amount of nominal and punitive damages awarded him by the jury. After careful review of the record and the parties' arguments on appeal, we conclude that Eoff waived his challenge to the jury verdict by failing to request a new trial. *See Kozlov v. Associated Wholesale Grocers, Inc.*, 818 F.3d 380, 391 (8th Cir. 2016) (concluding an inadequate jury award challenge is waived by failing to request a new trial). We also conclude that Eoff has not shown that the damages awarded resulted in a plain injustice or shocking result. *See id.*; *Westcott v. Crinklaw*, 133 F.3d 658, 662 (8th Cir. 1998) (holding that, absent exceptional circumstances like “plain injustice” or a “monstrous” or “shocking” result, the adequacy of a jury verdict must first be presented to the trial court in a new trial motion to preserve the issue for appellate review). Accordingly, we affirm. *See* 8th Cir. R. 47B.

¹The Honorable Brian S. Miller, United States District Judge for the Eastern District of Arkansas.