

United States Court of Appeals
For the Eighth Circuit

No. 22-1077

Simon Gebregziabher

Plaintiff - Appellant

v.

Francis G. Slay, Mayor and Board of Police Commissioners, Official Capacity;
Richard Gray, Board of Police Commissioners, Official Capacity; Thomas Irwin,
Board of Police Commissioners, Official Capacity; Erwin Switzer, Board of Police
Commissioners, Official Capacity; Marcus Bush, Police Officer, Individual Capacity

Defendants

Christopher Tanner, Detective, Individual Capacity

Defendant - Appellee

Paul Piatchek, LT of the Saint Louis Metropolitan Police Department, Individual
Capacity; Matthew Burle, Police Officer, Individual Capacity; Mickey Christ,
Police Officer, Individual Capacity; John Doe, #1 (DSN # unknown)

Defendants

Appeal from United States District Court
for the Eastern District of Missouri - St. Louis

Submitted: December 15, 2022

Filed: December 20, 2022

[Unpublished]

Before LOKEN, GRUENDER, and ERICKSON, Circuit Judges.

PER CURIAM.

Simon Gebregziabher appeals the district court's¹ adverse grant of summary judgment, as well as the adverse grant of judgment following a bench trial, as to certain excessive force claims in this 42 U.S.C. § 1983 action. Having carefully reviewed the record and the parties' submissions on appeal, we decline to consider Gebregziabher's arguments challenging the adverse grant of summary judgment, which were raised for the first time on appeal. See Wever v. Lincoln Cnty., Neb., 388 F.3d 601, 608 (8th Cir. 2004) (ordinarily, appellate court will not consider arguments raised for first time on appeal). We further find no basis for reversal of the district court's judgment following the bench trial. See Story v. Norwood, 659 F.3d 680, 684-85 (8th Cir. 2011) (findings of fact at bench trial reviewed for clear error; credibility determinations "virtually unreviewable" on appeal); Mann v. Yarnell, 497 F.3d 822, 825 (8th Cir. 2007) (reasonableness of official's conduct under circumstances is question of law). Accordingly, we affirm. See 8th Cir. R. 47B.

¹The Honorable Shirley P. Mensah, United States Magistrate Judge for the Eastern District of Missouri, to whom the case was referred for final disposition by consent of the parties pursuant to 28 U.S.C. § 636(c).