

United States Court of Appeals
For the Eighth Circuit

No. 22-2849

Jarell Davis Terry

Plaintiff - Appellant

v.

Calvin Arnett, Sergeant, EARU (Originally named Arnett and John Doe Officers)

Defendant - Appellee

Douglas Swiney, Lieutenant, EARU (Originally named Swiney and John Doe Officers)

Defendant

Roosevelt Bearden, Captain, EARU (Originally named R Bearden)

Defendant - Appellee

Amanda Granger, Former Lieutenant, EARU (Originally named Granger)

Defendant

Bernard Hamilton, Jr., Sergeant, EARU (Originally named Hamilton); Kenyon Randle, Major, EARU; Tiantha Westbrook, Sergeant, EARU (Originally named Westbrook); Demarcus Lewis, Corporal, EARU (Originally named Lewis); Dennis Ugbaja, Corporal, EARU (Originally named Ugbaja); Jamie Leak, Corporal, EARU (Originally named Leaks)

Defendants - Appellees

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

Submitted: January 26, 2023
Filed: February 6, 2023
[Unpublished]

Before SHEPHERD, GRASZ, and KOBES, Circuit Judges.

PER CURIAM.

Arkansas inmate Jarell Terry appeals following the district court's¹ adverse grant of summary judgment in his pro se 42 U.S.C. § 1983 action alleging that prison guard Calvin Arnett used excessive force against him. Upon de novo review, see Stanley v. Hutchinson, 12 F.4th 834, 838 (8th Cir. 2021) (standard of review), we affirm.

We conclude that the district court properly relied on the facts depicted by the surveillance video, which blatantly contradicted Terry's version of the facts, in deciding the summary judgment motions. See Scott v. Harris, 550 U.S. 372, 380-81 (2007) (where non-movant's version of events was blatantly contradicted by video evidence, court should not adopt that version of facts in ruling on summary judgment motion, but should view facts in light depicted by video). In light of the facts shown by the video, we agree that Arnett's use of force was a good-faith effort to restore discipline. See Hudson v. McMillian, 503 U.S. 1, 7 (1992) (holding that core inquiry

¹The Honorable D.P. Marshall Jr., Chief Judge, United States District Court for the Eastern District of Arkansas, adopting the report and recommendations of the Honorable Patricia S. Harris, United States Magistrate Judge for the Eastern District of Arkansas.

in prison excessive-force case is whether force was applied in good-faith effort to restore discipline or maliciously and sadistically to cause harm, and discussing relevant factors). Terry waived his challenge to the authenticity of the video by failing to raise the issue before the magistrate judge, see Dusseldorp v. Cont’l Cas. Co., 951 F.3d 981, 985 (8th Cir. 2020), and waived his claims against the other appellees by offering no argument about them in his briefs, see Stanley, 12 F.4th at 838 n.4.

The judgment is affirmed. See 8th Cir. R. 47B.
