

IN THE UTAH COURT OF APPEALS

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Scott C. Marsh, et al.,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiffs and Appellee,)	
)	Case No. 20080082-CA
v.)	
)	F I L E D
Don Welch Marsh,)	(August 21, 2008)
)	
Defendant and Appellant.)	2008 UT App 310

Third District, Salt Lake Department, 070907870
The Honorable Tyrone E. Medley

Attorneys: Don Welch Marsh, Appellant Pro Se
 James L. Ahlstrom and Bryan S. Johansen, Salt Lake
 City, for Appellee

Before Judges Bench, Davis, and Orme.

PER CURIAM:

Don Welch Marsh appeals the district court's February 4, 2008 final order granting Scott C. Marsh's motion for summary judgment. This case is before the court on Scott Marsh's motion for summary disposition.

As a general rule, "claims not raised before the trial court may not be raised on appeal." State v. Holgate, 2000 UT 74, ¶ 11, 10 P.3d 346. This preservation rule applies to "every claim, including constitutional questions, unless a defendant can demonstrate that 'exceptional circumstances' exist or 'plain error' occurred." Id. To preserve the issue for appeal, a party "must enter an objection on the record that is both timely and specific." State v. Rangel, 866 P.2d 607, 611 (Utah Ct. App. 1993). Such objection must be specific enough to give the trial court notice of the very error of which the party complains. See State v. Bryant, 965 P.2d 539, 546 (Utah Ct. App. 1998). In the context of summary judgment, when a party fails to file a memorandum in opposition to a motion for summary judgment, this court will not consider arguments opposing summary judgment for the first time on appeal. See Busch Corp. v. State Farm Fire & Cas. Co., 743 P.2d 1217, 1219 (Utah 1987).

Don Marsh seeks to appeal the district court's award of summary judgment. However, the record reveals that Don Marsh elected not to file a memorandum in opposition to the motion for summary judgment wherein he should have raised the issues he now asserts on appeal. Furthermore, Don Marsh was required to specifically deny the statements of undisputed fact that warranted the award of summary judgment. See Utah R. Civ. P. 7(d). Although Don Marsh later filed a request for hearing in the district court after the final order had been entered, the arguments contained therein were not properly before the district court and this court will not address them for the first time on appeal.

Accordingly, the district court's February 4, 2008 order is affirmed.

Russell W. Bench, Judge

James Z. Davis, Judge

Gregory K. Orme, Judge