

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 98-1947

Mark A. Tracy,

Appellant,

v.

George A. Lombardi; Robert R. Wright,

Appellees.

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Appeal from the United States
District Court for the
Western District of Missouri.

[UNPUBLISHED]

Submitted: November 1, 1999

Filed: November 4, 1999

Before BEAM, LOKEN, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

Mark A. Tracy, a Missouri inmate, appeals following the district court's¹ grant of summary judgment in his 42 U.S.C. § 1983 excessive-force case and the subsequent denial of his motion for reconsideration. Having carefully reviewed the record and the parties' briefs, and liberally construing Tracy's notice of appeal to include both the order denying the motion for reconsideration and the underlying order dismissing the action, we conclude (1) that the district court properly granted summary judgment, as

¹The Honorable William A. Knox, United States Magistrate Judge for the Western 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).

we cannot say the undisputed facts show force was applied maliciously and sadistically to cause harm, see Hudson v. McMillian, 503 U.S. 1, 6-7 (1992); and (2) that the court did not abuse its discretion in denying the motion for reconsideration, see Watkins v. Lundell, 169 F.3d 540, 543-44 (8th Cir. 1999).

Accordingly, we affirm. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.