

**UNITED STATES COURT OF APPEALS** **October 14, 2016**

**TENTH CIRCUIT**

**Elisabeth A. Shumaker**  
**Clerk of Court**

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BENSON WHITNEY,

Plaintiff - Appellant,

v.

JOHN MACGREGOR; CITY OF  
BOULDER,

Defendants - Appellees.

No. 15-1465  
(D.C. No. 1:13-cv-01451-RBJ)  
(D. Colo.)

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**ORDER AND JUDGMENT\***

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Before **KELLY, BRISCOE, and GORSUCH**, Circuit Judges.

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By all accounts, officers called to the scene found Mr. Whitney behaving in ways that appeared to pose a threat to himself and others. By all accounts, too, he failed to comply with officer requests. Still, Mr. Whitney says, the officers employed constitutionally excessive force when seeking to place him in protective custody. At summary judgment, the district court held that, even viewing them in the light most favorable to Mr. Whitney, the facts in this record could not support the charge as a matter of law. The court also denied Mr. Whitney's motions under Fed. R. Civ. P. 59 and 60. We have independently reviewed the record and

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\* This order is not binding precedent except under the doctrines of law of the case, res judicata and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

can find no fault with anything in the district court's analysis. Candidly, too, we do not see how we might improve upon its reasoning in any way and we discern nothing it left unsaid that we might usefully say now. So rather than repeat what the district court has already written, we adopt its opinions as our own. Mr. Whitney's motion to supplement the appendix is granted and the judgment is affirmed.

ENTERED FOR THE COURT

PER CURIAM