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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JEAN MILLER,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p style="text-align: center;">v.</p> <p>COUNTY OF BUTTE; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>
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No. 09-15365

D.C. No. 2:00-cv-01733-EJG-JFM

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Edward J. Garcia, District Judge, Presiding

Submitted September 27, 2011**

Before: HAWKINS, SILVERMAN, and W. FLETCHER, Circuit Judges.

Jean Miller appeals pro se from the district court’s judgment for defendants after a jury trial in Miller’s 42 U.S.C. § 1983 action alleging excessive force during her arrest. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion the trial court’s conduct during trial. *Price v. Kramer*, 200 F.3d 1237,

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

1252 (9th Cir. 2000). We affirm.

To the extent that Miller seeks to challenge the sufficiency of the evidence used by the jury in reaching its decision, she forfeited the right to do so by failing to file a motion under Fed. R. Civ. P. 50(a) or (b). *See Nitco Holding Corp. v. Boujikian*, 491 F.3d 1086, 1088-89 (9th Cir. 2007) (holding that “a party procedurally defaults a civil appeal based on the alleged insufficiency of the evidence to support the verdict if it fails to file a post-verdict motion for judgment notwithstanding the verdict”).

We do not consider Miller’s contention that a member of the jury was biased because it was raised for the first time on appeal, and its consideration is not “necessary to prevent manifest injustice.” *Travelers Prop. Cas. Co. of Am. v. ConocoPhillips Co.*, 546 F.3d 1142, 1146 (9th Cir. 2008).

Miller’s remaining contentions, including allegations of incompetence and bias by the district court judge and fraud upon the court, are unpersuasive.

Miller’s motions for a further extension of time to file a supplemental reply brief are denied.

AFFIRMED.