

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-30046
Conference Calendar

LEAVORDA L. SMALLEY,

Plaintiff-Appellant,

versus

DEPARTMENT OF CORRECTIONS ET AL.,

Defendants,

WILLIE THOMAS,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 99-CV-246-D

August 21, 2001

Before KING, Chief Judge, and POLITZ and PARKER, Circuit Judges.

PER CURIAM:*

Leavorda L. Smalley, Louisiana prisoner # 106878, appeals the district court's order granting a judgment as a matter of law in favor of Willie Thomas. Smalley argues that the district court erred in holding that he had not presented sufficient evidence to establish that Thomas used excessive force against him and in granting a judgment as a matter of law in favor of Thomas.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

This court reviews de novo the district court's grant of a judgment as a matter of law, using the same standards as the district court. Hidden Oaks Ltd. v. City of Austin, 138 F.3d 1036, 1042 (5th Cir. 1998). Under Rule 50, a court must render judgment as a matter of law when "a party has been fully heard on an issue and there is no legally sufficient evidentiary basis for a reasonable jury to find for that party on that issue.'" Reeves v. Sanderson Plumbing Prod., 530 U.S. 133, 149 (2000) (citation omitted); Mattern v. Eastman Kodak Co., 104 F.3d 702, 705 (5th Cir. 1997).

Smalley has not provided a trial transcript. Review of the district court's judgment as a matter of law requires de novo review of the entire record, including the trial transcript. See Reeves, 530 U.S. at 150. Without a transcript, this court cannot review whether the district court erred in granting a judgment as a matter of law as it is impossible to determine whether there was a legally sufficient evidentiary basis for a reasonable jury to find for Smalley. See id. at 149. Because Smalley has not provided a transcript, he cannot show that the district court erred in granting a judgment as a matter of law in favor of Thomas. Therefore, the district court's judgment is affirmed.

AFFIRMED.