UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 93-2059
Summary Calendar

REGINALD J. HOWARD, d/b/a
LAS VEGAS VIDEO,

Plaintiff-Appellant,

versus

SOD III and THOMAS J. GORDON,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
(CA H 91 1713)

(November 17, 1993)

Before POLITZ, Chief Judge, JONES and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:[*]

Reginald J. Howard d/b/a Las Vegas Video appeals the confirmation of the arbitrators' take-nothing award in this commercial landlord-tenant dispute. For the reasons assigned the appeal is dismissed.

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[*]Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Howard filed suit in state court alleging failure of the air-conditioning equipment in the premises containing his videotape rental operation. The lessors removed to federal court and the parties agreed to binding arbitration. The arbitrators concluded that no relief was warranted. The district court entered judgment in conformance with the arbitrators' award. Howard appeals.

Howard asserts in his *pro se* brief that the arbitrators did not make the appropriate choice of law, that the arbitrators were arbitrary and capricious in light of the evidence presented to them, and that the district court abused its discretion in denying his request for findings of fact and conclusions of law by both the arbitrators and the court.

Howard has not produced a record of the arbitration proceeding. We have no basis upon which to review the arbitrators choice of law, factual findings, or legal conclusions. As the challenging party, Howard has the obligation of providing the reviewing court with an adequate record upon which to base his challenge.[1] He has failed to do so.

Appellees have moved for dismissal of the appeal and sanctions for a frivolous appeal. The motion for dismissal is well taken. Although nigh persuaded by the arguments of appellees' counsel, in this instance in this *pro se* appeal, we decline to impose sanctions for a frivolous appeal.

Appeal DISMISSED.

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[1]Fed.R.App.P. 10(b)(2); **Powell v. Estelle**, 959 F.2d 22 (5th Cir.), cert. denied sub nom. **Harrison v. McKaskle**, 113 S.Ct. 668 (1992).