UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-8011
Summary Calendar

WESLEY LYNN PITTMAN,

Plaintiff-Appellant,

VERSUS

JACK GARNER, Warden, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Texas
(W-90-CV-196 c/w W-90-CV-363 & 308)

(April 15, 1994)

Before KING, DUHÉ, and BARKSDALE, Circuit Judges.

PER CURIAM:[1]

Texas inmate Wesley Lynn Pittman[2] challenges an adverse judgment after a jury trial on his *pro se*, *in forma pauperis* § 1983 claims, as well as the entry of a $100 sanction pursuant to Fed. R. Civ. P. 11. We **DISMISS** his appeal.

I.

Pittman is one of an ever-increasing number of recreational litigators who populate our prisons. *See* ***Gabel v. Lynaugh***, 835

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[1] 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 Pursuant to that Rule, the court has determined that this opinion should not be published.

[2] Pittman states that he is "now known as Kaazim Abul Umar".

F.2d 124, 125 n.1 (5th Cir. 1988) (per curiam) ("pro se civil rights litigation has become a recreational activity for state prisoners in our Circuit"). Indeed, this court has previously affirmed a district court ruling that Pittman brought a "malicious" § 1983 complaint. ***Pittman v. Moore***, 980 F.2d 994, 994-995 (5th Cir. 1993).

Pittman filed three civil rights actions relevant to this appeal, alleging, among numerous other things: that excessive force was employed against him; that he was denied adequate medical care; and that his free exercise rights were infringed by forcing him to comply with prison grooming requirements and by his prison diet. The parties consented to a magistrate judge handling the cases. The magistrate judge dismissed a number of the claims raised, and consolidated those remaining (five excessive force and two medical care) for trial. A jury returned a verdict in favor of the defendants. In addition, the magistrate judge imposed a $100 sanction against Pittman, because "the complaints were filed with the very purpose to harass or to cause unnecessary delay".[3]

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[3] The magistrate judge noted:

> The fact that this case proceeded through a trial on the merits does not change the character of the litigation, however, it does demonstrate how well the Plaintiff has been able to manipulate the legal system to his own benefit. Only with the aid of a full adversarial proceeding could the true character of Plaintiff's claims be evaluated. After considering the credible evidence presented at trial and having experienced Plaintiff's recreational litigiousness first-hand, the Court finds that in each of the consolidated cases Plaintiff filed complaints which were not well grounded in fact or warranted by existing law ....

II.

In addition to his appeal Pittman has moved to obtain a transcript at government expense; have counsel appointed; and "deny the appellees oral arguments and grant appellants appeal."

A.

Pittman raises a number of errors in his brief; however, he fails to provide *any* record citations. Accordingly, as also discussed in part II.B., we dismiss his appeal for failure to comply with our local rules and the Federal Rules of Appellate Procedure. ***Moore v. FDIC***, 993 F.2d 106, 107 (5th Cir. 1993) (per curiam); Fed. R. App. P. 28(a)(4-5), 28(e); Loc. R. 28.2.3; *see also* ***Yohey v. Collins***, 985 F.2d 222, 225 (5th Cir. 1993) ("Fed.R.App.P. 28(a)(4) requires that the appellant's argument contain the reasons he deserves the requested relief with citation to the ... parts of the record relied on. Although we liberally construe the briefs of pro se appellants, we also require that arguments must be briefed to be preserved.") (citations and internal quotations omitted); ***Pittman***, 980 F.2d at 995 ("In forma pauperis plaintiffs have no preferred status as litigants in respect to the procedures with which they must comply."). We will not cull through a record that stands approximately one foot high to find the underlying motions which gave rise to the appeal, the district court's rulings on those motions, and the facts alleged by

Pittman (a glance at the docket sheet demonstrates that Pittman filed dozens of motions before the magistrate judge).[4]

B.

Pittman raises several issues relating to his trial, for which he also provides no record citations. Because he had no trial transcript to which he could cite, his failure to do so may be excused, in part, if he should have been provided with a transcript at government expense. Thus, we turn to the substance of his motion to obtain a transcript.

Almost four months *after* submitting his appellate brief, Pittman moved that this court provide him a trial transcript.[5] To

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[4] A brief portion of the district court's order imposing sanctions merits reiteration: "Throughout the pendency of these cases Plaintiff bombarded the Court and Defendants with a steady barrage of frivolous and meritless motions and requests ...."

[5] Pittman filed a motion for the production of a transcript at government expense before the magistrate judge. The judge denied the motion, ordering Pittman to file a written statement that he needed the transcript for his appeal, a statement of the specific proceedings for which the transcript was desired, and a statement of the issues to be presented on appeal. Pittman did not do so, and did not seek a transcript through this court until almost four months *after* filing his appellate brief.

"Ordinarily, this court will not entertain an appeal when an appellant does not appeal from the order refusing a transcript at government expense." ***Knight v. Caldwell***, 970 F.2d 1430, 1432 n.2 (5th Cir. 1992), *cert. denied*, 113 S. Ct. 1298 (1993). Of course, a district court is in the best position to decide whether a party needs a transcript in order to raise a substantial issue on appeal. In this case, the magistrate judge denied the generalized request for a free transcript, but did inform Pittman that he would consider Pittman's request anew if Pittman provided an explanation of the specific issues he sought to raise and how the transcript would relate to those issues. Pittman's failure to appeal the denial of his generalized request, and his briefing of issues without regard to the trial transcript, estops him from moving at this late date for the production of a transcript at government expense. We conclude that this alone provides an alternative basis

prevail, he must demonstrate "a particular need for a transcript", and that need must relate to a "substantial question" that he raises. ***Harvey v. Andrist***, 754 F.2d 569, 571 (5th Cir.), *cert. denied*, 471 U.S. 1126 (1985). The issues raised by Pittman for which a trial transcript might be relevant do not present substantial questions; in fact, they are devoid of merit.

First, Pittman asserts that an expert should not have been permitted to testify regarding use of force because "he was not the officer [who] investigated the respective use of force incidents." This contention is facially absurd. Expert witnesses may testify about facts learned after the events in question (if such facts are of the sort relied on by such experts), and may offer opinions based on such facts. Fed. R. Evid. 703. Likewise, Pittman challenges the testimony of a medical expert because that expert based her opinion on "the medical records". Because Pittman does not assert that such records are not of the sort that can be relied upon by a medical expert, this claim fails to raise a substantial question. *See* ***id.***[6]

Pittman also contends that the district court violated Rule 404(b) by allowing the excessive force expert to testify that prison records indicated that "Appellant had filed 127 claims of excessive use of force and/or retaliation and harassment by

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for denying his motion.

[6] Pittman similarly challenges the decision of the district court to grant defendants' motion to quash a subpoena proposed by Pittman for two expert witnesses because Pittman failed to tender witness or mileage fees. A trial transcript would be of no relevance to this claim.

officers from every unit he has been incarcerated at TDCJ-ID ...". (Ellipses in Brief). The basis for this contention is unclear; Pittman suggests that the prison division charged with investigating such claims is "nothing but a `sham' which has a long history record in covering up for TDCJ officials['] beatings, assaults, torture and killings of prisoners". How evidence that he has submitted prior claims to such a division constitutes "evidence of [an] extrinsic offense" (the assertion maintained in his brief) is without merit. Therefore, this claim does not raise a substantial question.[7]

Pittman asserts that the trial court erred in denying his motion for a directed verdict because one of the defendants "did not appear [at] trial".[8] Pittman makes no cogent argument on this point, nor does he cite any authority (other than irrelevant authority for the proposition that *pro se* complaints are to be construed liberally). "A skeletal `argument', really nothing more than an assertion, does not preserve a claim. Especially not when the brief presents a passel of other arguments .... Judges are not like pigs, hunting for truffles buried in briefs." ***United States v. Dunkel***, 927 F.2d 955, 956 (7th Cir. 1991) (per curiam) (citations omitted); *see also* ***Yohey***, 985 F.2d at 225 (noting that

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[7] To the extent that his brief *may* address different evidence of other wrongs, we find it conclusory and cryptic.

[8] Apparently, the denial of his motion for directed verdict is the basis of Pittman's motion to obtain a trial transcript at government expense. Out of an abundance of caution, we have examined his brief for any claim that raises a substantial question for which a trial transcript would be necessary.

the Federal Rules of Appellate Procedure require that an appellant's argument contain the reasons for the relief requested with citation to authorities). This issue does not present a substantial question necessitating the provision of a trial transcript.

Pittman also challenges the imposition of Rule 11 sanctions. While it might seem that the trial transcript could be of some use in assessing this contention, such is not the case. Pittman's contention merely regurgitates the form of a § 1983 complaint ("Appellant argues that he has been deprived of his federal protected constitutional rights, and that the Appellees at all times was [sic] acting under color of state law ..."), and then re-raises a claim regarding the district court's refusal to appoint counsel for him. No substantial question is raised by these assertions; Pittman does not specifically challenge the factual predicate for the district court's sanctions order.

III.

For the foregoing reasons, Pittman's motions to obtain a trial transcript at government expense, for appointment of counsel, and for this court "to deny the appellees oral argument and grant appellants appeal" are **DENIED**, and the appeal is **DISMISSED**.