

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-11104  
(Summary Calendar)

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ALICE FAYE ASONGWE,  
Plaintiff-Appellant,  
versus  
TAMBRANDS INCORPORATED,  
Defendant-Appellee.

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Appeal from United States District Court  
from the Northern District of Texas  
(3:93-CV-2215-J)

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August 15, 1995

Before JOLLY, JONES, and STEWART, Circuit Judges.

PER CURIAM:\*

Alice Asongwe appeals the district court's dismissal of her products liability complaint against Tambrands, Inc. (Tambrands). For the following reasons, this appeal is dismissed.

BACKGROUND

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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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Alice Asongwe filed a pro se products liability complaint against Tambrands alleging injury and damages resulting from Toxic Shock Syndrome. The case proceeded to trial. After Asongwe presented her case, the district court granted Tambrands motion to dismiss because Asongwe failed to offer evidence that her injuries were proximately caused by Tambrands' product or that the product was defectively designed. Asongwe timely filed a pro se appeal.

#### DISCUSSION

##### Issue 1:

Asongwe argues that the district court erred in denying her the opportunity to present evidence. Asongwe lists several federal rules of evidence in her brief; however, she does not state how the district court violated these rules or what evidence it excluded. See id. Asongwe did not submit a transcript of the trial proceedings nor, having in forma pauperis status, did she file a motion for a transcript at the government's expense.

It is the duty of the appellant to order a transcript of such parts of the district court proceeding deemed necessary for appellate review. Fed. R. App. P. 10(b)(1). An appellant who wishes to challenge the district court's evidentiary rulings must provide this court with a transcript. Richardson v. Henry, 902 F.2d 414, 416 (5th Cir.), cert. denied., 498 U.S. 901, 111 S.Ct. 260, 112 L.Ed.2d 218 (1990). This court does not consider the merits of an issue when the appellant fails in that responsibility. Id. at 416. The failure of an appellant to provide a transcript is a proper ground for dismissal of the appeal. Id. Because Asongwe

has not provided a trial transcript, her appeal on this issue is dismissed.

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Issues 2, 3, 4:

Asongwe argues that the district court erred in denying her motion for continuance, effectively denying her the opportunity to procure evidence and the testimony of expert witnesses. An appellant's brief must contain the appellant's argument and the reasons he deserves the requested relief "with the citation to the authorities, statutes and parts of the record relied on," and must state the applicable standard of review. Fed. R. App. P. 28(a)(6). Although this court liberally construes the briefs of pro se appellants, this court also requires that the arguments be briefed to be preserved. Yohey v. Collins, 985 F.2d 222, 225 (5th Cir. 1993). An appeal may be dismissed if a brief fails to comply with Rule 28. See Moore v. FDIC, 992 F.2d 106, 107 (5th Cir. 1993).

Asongwe presented insufficient argument to preserve her issues on appeal. Asongwe's brief contains only a vague statement and argument of the issues she wishes to raise, without citation to authority or the record and without an adequate statement of the applicable standard of review. Accordingly, Asongwe's appeal is dismissed as to these issues as well.

#### CONCLUSION

For the foregoing reasons, Asongwe's appeal is DISMISSED.

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