

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-20573
(Summary Calendar)

BERNARD HARDY,

Plaintiff-Appellant,

versus

PINKERTON SECURITY SYSTEMS,

Defendants-Appellee.

Appeal from United States District Court
for the Southern District of Texas
(CA-H-92-2564)

June 14, 1995

Before DUHÉ, WIENER and STEWART, Circuit Judges.

PER CURIAM:*

Bernard Hardy, pro se, appeals the take nothing judgment in his racial discrimination suit against his former employer, Pinkerton Security and Investigative Services. The judgment was rendered after a one day bench trial. In his appeal, Hardy makes several challenges to the district court's conclusion based on the evidence presented at trial. However, on appeal Hardy has not

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

included a trial transcript in the record.

"Rule 10(b)(2) of the rules of appellate procedure requires an appellant who contends that a finding or conclusion is unsupported by the evidence to include in the appellate record a transcript of all evident relevant to that finding or conclusion." Richardson v. Henry, 902 F.2d 414, 415 (5th Cir. 1989), cert. denied, 498 U.S. 901, 111 S.Ct. 260, 112 L.Ed.2d 218 (1990); 498 U.S. 1069, 111 S.Ct. 789, 112 L.Ed.2d 852 (1991). The failure of an appellant to provide the transcript is grounds for the dismissal of appeal.¹ Id. at 416. Because the appellant in this case has failed to include a transcript, this appeal is DISMISSED.

¹At one point, Hardy made a trial transcript request to the district court, but he later withdrew his request citing a lack of funds to pay for the transcript. Although Fed. R. App. P. 10(c) makes an exception to the duty of the appellant to provide a trial transcript when the transcript is not available, the inability to bear the financial burden of providing a transcript does make a transcript unavailable. Richardson v. Henry, 902 F.2d 414, 416 (5th Cir. 1989), cert. denied, 498 U.S. 901, 111 S.Ct. 260, 112 L.Ed.2d 218 (1990); 498 U.S. 1069, 111 S.Ct. 789, 112 L.Ed.2d 852 (1991).