

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-40557
Conference Calendar

CHARLES BENNETT,

Plaintiff-Appellant,

versus

JAMES A. COLLINS, Director,
ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:92-CV-761

- - - - -
(November 16, 1994)

Before JONES, DUHÉ, and PARKER, Circuit Judges.

PER CURIAM:*

Although this Court construes pro se pleadings liberally, pro se litigants must abide by the Federal Rules of Appellate Procedure. See United States v. Wilkes, 20 F.3d 651, 653 (5th Cir. 1994). Under Fed. R. App. P. 10(b)(2), it is the appellant's responsibility to provide the appellate court with a suitable record on appeal. It is within the discretion of this Court to dismiss an appeal for failure to provide a complete

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

transcript of the record on appeal. Boze v. Branstetter, 912 F.2d 801, 803 n.1 (5th Cir. 1990).

Bennett has failed to provide this Court with a transcript of the trial proceedings. He moved below to have a free transcript provided, but chose not to appeal the magistrate judge's denial of his motion. Because Bennett has not met his obligation of including in the record those portions of the transcript relevant to the rulings and findings in question, this Court declines to consider his challenge to the propriety of evidentiary rulings or the jury verdict. See Alizadeh v. Safeway Stores, Inc., 910 F.2d 234, 237 (5th Cir. 1990).

Moreover, Bennett's challenge to the jury's verdict, based on the weight of the evidence and the credibility of the witnesses, is not subject to appellate review. "An appellate Court is in no position to weigh conflicting evidence and inferences or to determine the credibility of witnesses; that function is within the province of the finder of fact." Martin v. Thomas, 973 F.2d 449, 453 n.3 (5th Cir. 1992) (internal quotations and citation omitted).

This appeal presents no issue of arguable merit; it is thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5th Cir. R. 42.2.