IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 94-60315
Summary Calendar

WILLIE JAMES POLK,

Plaintiff-Appellant,

VERSUS

FRANK DAVIS, SHIRLEY HALL,
and MARVIN LUCAS,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Mississippi
(5:91-CV-30-BR-N)

(December 2, 1994)

Before SMITH, EMILIO M. GARZA, and PARKER, Circuit Judges.

PER CURIAM:[*]

Willie Polk appeals the dismissal of his state prisoner's civil rights action filed pursuant to 42 U.S.C. § 1983. Concluding that the appeal is frivolous, we dismiss it.

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[*] Local Rule 47.5.1 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 Pursuant to that rule, the court has determined that this opinion should not be published.

I.

Polk, a Mississippi pretrial detainee, sued Frank Davis, Claiborne County Sheriff; Sheriley Hall, county jail administrator; and Marvin Lucas, "chief jailer" at the county jail. From February 12, 1989, to March 1, 1990, Polk was incarcerated in the Claiborne County jail while awaiting trial. He alleged that, during this time, he was continuously confined in a "tight cell," measuring four by eight feet, on the first floor of the jail. He averred that the cell was used to house inmates who violate disciplinary rules, but he committed no violation.

Polk further claimed that after about three or four months, he asked Lucas whether he could be moved upstairs with the other inmates, but Lucas said that the sheriff would not permit it. Polk claimed that he made the same request of Hall, and she responded by telling Polk that the sheriff was the person with whom he should speak. Polk alleged that Davis refused to talk with him about the situation. Polk further claimed that he was not allowed to attend church services or exercise outdoors, that he was denied contact visits, and that Davis, Hall, and Lucas refused to respond to his complaints. Polk asserted that these acts violated his constitutional rights, and he requested $350,000 in damages.

Pursuant to 28 U.S.C. § 636(b)(1)(B), the complaint was referred to a magistrate judge. Polk moved for partial summary judgment on his claim concerning the use of the "tight cell." Defendants requested that the court hold the motion in abeyance pending completion of discovery. The magistrate judge granted

defendants' request and ordered Polk's motion held in abeyance for forty-five days.

The case was subsequently tried before the magistrate judge, who recommended granting judgment for defendants. The magistrate judge found that the cell in which Polk was incarcerated was eight feet by eight feet, with a ten-foot, eight-inch ceiling. The magistrate judge further found that Polk was allowed to attend church services with other inmates. The magistrate judge determined that Polk was denied outdoor recreation and that he was kept segregated from other inmates, but that the restrictions were imposed by Davis in response to legitimate concerns about Polk's safety, the safety of the other inmates, and the overall security of the jail.

Accordingly, the magistrate judge concluded that Davis made a reasonable administrative decision to segregate Polk from the other inmates and from the outside world and that there was no evidence that Davis intended to punish Polk by taking these steps. The district court adopted the magistrate judge's recommendation over Polk's objections and entered judgment for defendants.

II.

It is difficult to determine, from Polk's brief, why he believes the district court erred by granting judgment for defendants. The brief lists a number of issues, in the form of assertions of fact regarding the limitations placed on Polk while he was incarcerated in the Claiborne County jail, but the brief

does not address the crucial issue: whether, as the magistrate judge determined, the restrictions were reasonably related to legitimate penological interests. See Turner v. Safley, 482 U.S. 78, 89 (1987).

"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 authorities, statutes and parts of the record relied on." Yohey v. Collins, 985 F.2d 222, 225 (5th Cir. 1993) (internal quotations omitted). Although this Court liberally construes pro se briefs, we require arguments to be briefed in order to be preserved. Id.; Price v. Digital Equip. Corp., 846 F.2d 1026, 1028 (5th Cir. 1988). Arguments not adequately argued in the body of the brief are deemed abandoned on appeal. See Yohey, 985 F.2d at 224-25. General arguments giving only broad standards of review and not citing to specific errors are insufficient to preserve issues for appeal. See Brinkmann v. Abner, 813 F.2d 744, 748 (5th Cir. 1987). This court "will not raise and discuss legal issues that [the appellant] has failed to assert." Id.

Polk's brief fails to satisfy these requirements. It does not identify how the district court erred by granting judgment for defendants or explain why that judgment should be reversed. Instead, Polk simply reiterates his allegations and argues that, based upon the allegations, he should prevail. The appeal, accordingly, does not present an issue of arguable legal merit. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983).

III.

Polk also asserts that he "was not given the power of [Federal] Rule [of Civil Procedure] 56." Defendants explain that this assertion refers to the magistrate judge's decision to grant their motion to hold Polk's partial motion for summary judgment in abeyance pending the completion of discovery.

It does not appear that the magistrate judge abused his discretion by granting defendants' motion for the continuance. Once a motion for summary judgment has been filed, the nonmoving party may seek a continuance if additional discovery is necessary to respond to the motion. Rule 56(f); International Shortstop, Inc. v. Rally's, Inc., 939 F.2d 1257, 1266 (5th Cir. 1991), cert. denied, 112 S. Ct. 936 (1992). The decision to grant or deny a motion for a continuance is within the sound discretion of the district court, Saavedra v. Murphy Oil U.S.A., Inc., 930 F.2d 1104, 1107 (5th Cir. 1991), and will not be disturbed on appeal absent an abuse of discretion, Chevron U.S.A., Inc. v. Traillour Oil Co., 987 F.2d 1138, 1156 (5th Cir. 1993). Defendants requested the continuance to take Polk's deposition, because Polk had refused to answer questions during defendants' prior attempt to depose him.

IV.

Finally, Polk correctly points out that the magistrate judge and the district court failed to rule on his motion for appointment of counsel. We construe the failure to rule on the motion as an implicit denial of it. The standard of review is whether the

district court abused its discretion. See Jackson v. Dallas Police Dep't, 811 F.2d 260, 261 (5th Cir. 1986).

There is no automatic right to the appointment of counsel in § 1983 actions. Counsel must be appointed only in "exceptional circumstances." Four factors should be considered to decide whether a civil rights case is an exceptional one requiring the appointment of counsel:

> (1) the type and complexity of the case; (2) whether the indigent is capable of adequately presenting his case; (3) whether the indigent is in a position to investigate adequately the case; and (4) whether the evidence will consist in large part of conflicting testimony so as to require skill in the presentation of evidence and in cross examination.

Ulmer v. Chancellor, 691 F.2d 209, 213 (5th Cir. 1982) (internal citations omitted).

Polk makes no attempt to show how this case is an exceptional one warranting the appointment of counsel. The only Ulmer factor arguably supporting appointment of counsel in this case would be the fourth factor. But the record reflects that Polk did an adequate job in presenting his case and questioning witnesses. Accordingly, it does not appear that the district court abused its discretion by denying the motion.

This appeal is frivolous. Accordingly, it is DISMISSED. See 5TH CIR. R. 42.2.