

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40276
Summary Calendar

ERIC R. WASHINGTON,

Plaintiff-Appellant,

versus

P. CARTER; D. JENKINS, Officer;
E. WHITE; B.C. BROWN; SERGEANT PATMON,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. G-96-CV-254
- - - - -

March 25, 1999

Before POLITZ, GARWOOD, and SMITH, Circuit Judges.

PER CURIAM:*

Eric R. Washington, Texas state prisoner # 523233, appeals the judgment in favor of the defendants on his excessive-force claim following a jury trial. Washington contends that the magistrate judge abused his discretion in refusing to appoint counsel for him. He also challenges the jury's finding that he failed to prove his excessive-force claim by a preponderance of the evidence.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Washington has failed to provide the court with a transcript of the trial. An appellant who wishes to challenge findings or conclusions that are based on proceedings at a hearing has the responsibility to order a transcript. See Fed. R. App. P. 10(b)(2); Richardson v. Henry, 902 F.2d 414, 415-16 (5th Cir. 1990). To the extent that Washington challenges on appeal the judgment in favor of the defendants on his excessive-force claim, the appeal is DISMISSED. See Richardson, 902 F.2d at 416.

Washington has failed to show that the magistrate judge abused his discretion in refusing to appoint counsel for him. See Ulmer v. Chancellor, 691 F.2d 209, 212-13 (5th Cir. 1982). The court's denial of Washington's motion for the appointment of counsel is AFFIRMED.

DISMISSED IN PART; AFFIRMED IN PART.