United States Court of Appeals
Fifth Circuit

F I L E D

February 6, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

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No. 03-60149
Summary Calendar
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RONNIE LEE MASSINGILLE,

Plaintiff-Appellant,

versus

JONES COUNTY JAIL; GROVER CHANDLER;
LARRY DUKES; JONES COUNTY,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 2:00-CV-255-PG

Before JOLLY, JONES, and WIENER, Circuit Judges.

PER CURIAM:[*]

Ronnie Lee Massingille, a Mississippi prisoner (# K5760),

appeals the magistrate judge's judgment in favor of the

defendants following a non-jury trial of Massingille's 42 U.S.C.

§ 1983 claims. Massingille argues that the magistrate judge's

rejection of his claims was not supported by the trial evidence

and testimony. He also maintains that the magistrate judge

committed errors in conducting the trial. Because Massingille's

failure to provide this court with a transcript of the trial

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[*] 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that this opinion should not be published and is not precedent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.

prevents this court from reviewing these appellate arguments, the appeal is DISMISSED. See FED. R. APP. P. 10(b)(2); Richardson v. Henry, 902 F.2d 414, 416 (5th Cir. 1990). Massingille's remaining claims are frivolous. His contention that the magistrate judge erred in denying his pretrial motion for summary judgment is not cognizable. See Black v. J. I. Case Co., 22 F.3d 568, 570 (5th Cir. 1994) ("this [c]ourt will not review the pretrial denial of a motion for summary judgment where on the basis of a subsequent full trial on the merits final judgment is entered adverse to the movant"). He also maintains that he was deprived of his right to a jury trial, but the record reflects that he waived that right by failing to assert it. See FED. R. CIV. P. 38(b), (d).

Massingille's motion for appointment of counsel is DENIED.

APPEAL DISMISSED; MOTION DENIED.