

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-5578
Conference Calendar

ANTHONY L. HUDSON,

Plaintiff-Appellant,

versus

J. RICHIE ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 9:93-CV-27
- - - - -
(July 21, 1994)

Before POLITZ, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:*

Texas prisoner Anthony L. Hudson filed a civil rights complaint against Officer Richie, Warden Cooper, and Assistant Director of Internal Affairs Grant alleging an Eighth Amendment excessive force claim. The claims against Warden Cooper and Assistant Director Grant were dismissed as frivolous, and a jury found for Officer Richie and the case was dismissed with prejudice.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

It is the appellant's responsibility to provide a transcript of all relevant evidence to support his appellate argument. See Fed. R. App. P. 10(b)(2); Powell v. Estelle, 959 F.2d 22, 26 (5th Cir.), cert. denied, 113 S.Ct. 668 (1992). If the appellant fails to provide the necessary transcript, the appeal may be dismissed. Richardson v. Henry, 902 F.2d 414, 416 (5th Cir. 1990), cert. denied, 498 U.S. 901 (1990), 498 U.S. 1069 (1991).

Hudson argues that the evidence was insufficient to support the jury's verdict. He has not provided a transcript of the trial and therefore this Court cannot address this claim. The appeal as to this claim is dismissed. See Richardson, 902 F.2d at 416.

Hudson also argues that the jury was all white. A constitutional challenge to the make-up of jury must be made at trial or the claim is waived. See Dawson v. Wal-Mart Stores, Inc., 978 F.2d 205, 210 (5th Cir. 1992). Because Hudson has not provided a transcript of the jury voir dire, this Court cannot determine the racial composition of the jury or whether Hudson made a proper objection in the district court. Therefore, the appeal as to this claim is dismissed. See Richardson, 902 F.2d at 416.

Hudson next argues that the magistrate judge permitted the jury to see him in handcuffs and escorted by prison officials. Again the Court cannot review the claim because the record does not indicate if the jury ever saw Hudson in handcuffs, and this portion of the appeal should be dismissed. See Richardson, 902 F.2d at 416.

Hudson also argues that he was permitted to call only two witnesses while the defendant was permitted to call ten witnesses. The record on appeal reflects that Hudson had five witnesses on his witness list, and all five witnesses were permitted to testify. Therefore, this claim is unsupported by the record.

Finally, to the extent that Hudson argues that his court-appointed counsel was ineffective for failing to introduce certain evidence his claim must also fail. The Sixth Amendment right to effective assistance of counsel does not apply in civil litigation. Sanchez v. United States Postal Service, 785 F.2d 1236, 1237 (5th Cir. 1986).

Appeal DISMISSED in part; AFFIRMED in part. The motion to dismiss the appeal is DENIED as moot; the motion to file an out-of-time brief is DENIED as unnecessary.