

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-10842
Conference Calendar

ANTHONY L. BEARD,

Plaintiff-Appellant,

versus

CHARLES BELL ET AL.,

Defendants,

WILLIAM BARDIN ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:93-CV-155-BA
- - - - -

(January 27, 1995)

Before POLITZ, Chief Judge, and HIGGINBOTHAM and DeMOSS,
Circuit Judges.

PER CURIAM:*

Anthony L. Beard challenges the credibility determinations made at trial. He also argues that the magistrate judge erroneously denied the introduction of two prison grievance forms at trial.

This Court does not weigh conflicting evidence or review credibility determinations made at trial. Martin v. Thomas, 973

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

F.2d 449, 453 n.3 (5th Cir. 1992) (citation omitted).

Evidentiary rulings are reviewed for an abuse of discretion which caused substantial prejudice. Williams v. Chevron U.S.A., Inc., 875 F.2d 501, 504 (5th Cir. 1989). This appellate issue cannot be resolved without a transcript.

An appellant, even one pro se, who wishes to challenge findings or conclusions that are based on proceedings at a hearing has the responsibility to order a transcript. Fed. R. App. P. 10(b); Powell v. Estelle, 959 F.2d 22, 26 (5th Cir.), cert. denied, 113 S. Ct. 668 (1992). This Court does not consider the merits of an issue when an appellant fails in that responsibility. Powell, 959 F.2d at 26.

Beard has not provided a trial transcript. We thus decline to consider his contentions on appeal. See Alizadeh v. Safeway Stores, Inc., 910 F.2d 234, 237 (5th Cir. 1990).

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

IT IS ORDERED that the various motions of the parties regarding supplementation of the record are DENIED as moot.