

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 96-41096  
Conference Calendar

---

LARRY LYNN WHEELER,

Plaintiff-Appellant,

versus

ALTON DALE CASKEY, WARDEN, MICHAEL UNIT;  
MARK L. BASS, CO III, MICHAEL UNIT; CATHERINE  
GAIL MAYES; NORA MCCLURE, PROPERTY ROOM CLERK;  
WILLIAM C. BAKER, SERGEANT, MICHAEL UNIT; CHARLES  
D. LIGHTFOOT, CAPTAIN, MICHAEL UNIT,

Defendants-Appellees.

- - - - -  
Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 6:95-CV-625  
- - - - -

April 10, 1998

Before JOLLY, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:\*

Appellant Larry Lynn Wheeler, prisoner # 549477, appeals the dismissal with prejudice of his civil rights action, following a bench trial. The resolution of Wheeler's arguments on appeal depends on a review of a transcript of that trial. Wheeler has not provided a transcript.

It is Wheeler's responsibility to provide this court with a transcript. See Fed. R. App. P. 10(b). Wheeler's failure to

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

provide one prevents this court from reviewing his argument that the district court erred in finding that his Eighth Amendment rights were not violated. See Richardson v. Henry, 902 F.2d 414, 415-16 (5th Cir. 1990).

This appeal is without arguable merit and thus frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is hereby DISMISSED. 5th Cir.

R. 42.2.

APPEAL DISMISSED.