

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

HAROLD BACKEY,

Plaintiff-Appellant.

v.

No. 94-7495

SOUTH CAROLINA DEPARTMENT OF

CORRECTIONS,

Defendant-Appellee.

Appeal from the United States District Court
for the District of South Carolina, at Columbia.

Joseph R. McCrorey, Magistrate Judge.

(CA-94-129-3-OBC)

Submitted: December 14, 1995

Decided: January 3, 1996

Before ERVIN, Chief Judge, and WIDENER and WILKINS,
Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Harold Backey, Appellant Pro Se. Vinton DeVane Lide, LIDE,
MONTGOMERY, POTTS & MEDLOCK, P.C., Columbia, South
Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Harold Backey appeals from a judgment order entered by the magistrate judge* pursuant to a jury verdict entered in favor of the Defendant in an action seeking relief under 42 U.S.C. § 1983 (1988). We note that the record does not contain a transcript of the trial, but find that the appeal presents no "substantial question" justifying provision of a free transcript at government expense. See 28 U.S.C. § 753(f) (1988). Appellants generally bear the burden of demonstrating non-frivolity and substantiality. See Maloney v. E.I. Du Pont de Nemours & Co., 396 F.2d 939, 940 (D.C. Cir. 1967), cert. denied, 396 U.S. 1030 (1970).

In this case, Backey's allegations of wrongful placement in administrative segregation do not involve the kind of significant or atypical hardship necessary to invoke the due process rights he avers were violated in this case; namely, his right to notice of the reasons for such placement. See Sandin v. Conner, ___ U.S. ___, 63 U.S.L.W. 4601 (U.S. June 19, 1995) (No. 93-1911). Moreover, Backey's contentions relating to the alleged conversion of his personal property by the Defendant most likely necessitated a credibility determination by the jury, and such determinations are not subject to review by this Court. See United States v. Saunders, 886 F.2d 56, 60 (4th Cir. 1989).

We therefore affirm the magistrate judge's order entering judgment for the Defendant and deny Backey's motion for appointment of counsel. We dispense with oral argument because the facts and legal

*The parties consented to trial by a magistrate judge pursuant to 28 U.S.C.A. § 636(c) (West 1993).

contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED