

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 99-3059

Gary Fuller,

Appellant,

v.

Wendell Rayburn; George Brooks;
Stephana Landwehr; Claude Rogers;
Robert Taylor; Yvonne Wilson; Donald
Wyss; Lincoln University Board of
Curators; Robert Webber; Ruth
McGowan,

Appellees.

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Appeal from the United States
District Court for the Western
District of Missouri.

[UNPUBLISHED]

Submitted: August 7, 2000

Filed: August 14, 2000

Before McMILLIAN, RICHARD S. ARNOLD, and MORRIS SHEPPARD
ARNOLD, Circuit Judges.

PER CURIAM.

Gary Fuller appeals the district court's¹ orders denying his motions for default judgment, and a new trial, in his action alleging Lincoln University discriminatorily canceled his enrollment. We conclude the district court did not abuse its discretion in denying default judgment under Fed. R. Civ. P. 37. See Chrysler Corp. v. Carey, 186 F.3d 1016, 1019 (8th Cir. 1999) (standard of review; to impose Rule 37 sanctions there must be order compelling discovery, willful violation of that order, and prejudice to other party); cf. Sylla-Sawdon v. Uniroyal Goodrich Tire Co., 47 F.3d 277, 280 (8th Cir.) (generally this court will not interfere with great latitude exercised by district court in discovery matters), cert. denied, 516 U.S. 822 (1995). Because Mr. Fuller failed to file a complete trial transcript, we cannot determine whether the verdict was against the weight of the evidence or whether the challenged evidence was "so prejudicial that a new trial would likely produce a different result." See Ogden v. Wax Works, Inc., 214 F.3d 999, 1010-11 (8th Cir. 2000) (standard of review; grounds for granting new trial); Schmid v. United Bhd. of Carpenters and Joiners of Am., 827 F.2d 384, 385-86 (8th Cir. 1987) (where appellant challenging final judgment on jury verdict failed to file trial transcript, it was impossible to determine accuracy and context of judge's comments allegedly indicating bias, to evaluate challenged evidentiary rulings, or to rule on weight of evidence), cert. denied, 484 U.S. 1071 (1988).

We deny Mr. Fuller's motion to strike appellees' brief and addendum.

Accordingly, we affirm. See 8th Cir. R. 47B.

¹The Honorable Scott O. Wright, United States District Judge for the Western District of Missouri.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.