

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 99-4200

Rick Arthur; Diana Arthur,

Appellants,

v.

Wal-Mart Stores, Inc.,

Appellee.

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* Appeal from the United States
* District Court for the
* Eastern District of Missouri.
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* [UNPUBLISHED]
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Submitted: November 8, 2000

Filed: November 9, 2000

Before McMILLIAN, BOWMAN, and MORRIS SHEPPARD ARNOLD, Circuit
Judges.

PER CURIAM.

Rick and Diana Arthur appeal the District Court's¹ denial of their motion for a new trial in their diversity suit against Wal-Mart Stores, Inc. Because the Arthurs have not filed a trial transcript, we cannot determine whether the District Court abused its discretion in denying their motion. See Ogden v. Wax Works, Inc., 214 F.3d 999, 1010 (8th Cir. 2000) (standard of review). We are thus precluded from conducting a meaningful review. See Schmid v. United Brotherhood of Carpenters & Joiners, 827

¹The Honorable Rodney W. Sippel, United States District Judge for the Eastern District of Missouri.

F.2d 384, 385-86 (8th Cir. 1987) (per curiam) (holding that where appellant did not file transcript, reviewing court could not, inter alia, evaluate challenged evidentiary rulings or weight of evidence), cert. denied, 484 U.S. 1071 (1988). To the extent the Arthurs are claiming ineffective assistance of counsel, no remedy is available in this proceeding. See Glick v. Henderson, 855 F.2d 536, 541 (8th Cir. 1988) (suggesting that remedy for ineffective assistance of counsel in civil case with private counsel is not new trial, but suit against attorney for malpractice).

Accordingly, we affirm.

A true copy.

Attest:

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