

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

No. 00-2979MN

Gerry C. DuBose,

Appellant,

v.

John D. Kelly, individually and as an agent of Hanft, Fride, O'Brien, Harries, Swelbar & Burns, P.A.; Jennifer L. Carey, formerly known as Jennifer L. Cook, individually and as an agent of Hanft, Fride, O'Brien, Harries, Swelbar & Burns, P.A.; Hanft, Fride, O'Brien, Harries, Swelbar & Burns, P.A.,

Appellees.

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On Appeal from the United States District Court for the District of Minnesota.

[Not To Be Published]

Submitted: June 1, 2001

Filed: June 12, 2001

Before BOWMAN, RICHARD S. ARNOLD, and JOHN R. GIBSON, Circuit Judges.

PER CURIAM.

Gerry C. DuBose appeals various unfavorable rulings following a jury trial on his 42 U.S.C. § 1983 claims against attorneys John Kelly and Jennifer Carey and their

law firm. For reversal, DuBose challenges the District Court's¹ denial of his motion for a change of venue, the exclusion of certain evidence, the grant of judgment as a matter of law in favor of Carey, and the entry of judgment upon the jury verdict in favor of Kelly and the firm. The District Court granted DuBose's request for limited portions of the transcript at government expense.

Without a complete trial transcript, however, we cannot review the District Court's evidentiary rulings, the grant of judgment, or the sufficiency of the evidence supporting the jury's verdict. See Fed. R. App. P. 10(b)(2) (discussing appellant's duty to order transcript); Schmid v. United Bhd. of Carpenters and Joiners, 827 F.2d 384, 386 (8th Cir. 1987) (per curiam) (appellant's failure to provide complete transcript makes it impossible to review evidence presented at trial), cert. denied, 484 U.S. 1071 (1988); see also DuBose v. Kelly, 187 F.3d 999, 1003-04 (8th Cir. 1999) (noting that whether Dubose's evidence--i.e., his eyewitness account of ex parte contact and alleged agreement that malpractice trial would end in verdict for defendant--was to be believed was matter for jury). In addition, assuming DuBose renewed his change-of-venue motion during voir dire, the absence of a transcript of the jury-selection process makes it impossible to review the necessity of a change of venue. See United States v. Faul, 748 F.2d 1204, 1212 (8th Cir. 1984) (holding appellate court has duty to examine independently voir dire testimony to determine whether impartial jury was selected, thus obviating necessity for change of venue), cert. denied, 472 U.S. 1027 (1985).

Accordingly, we affirm.

¹The Honorable Michael J. Davis, United States District Judge for the District of Minnesota.

A true copy.

Attest:

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