

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Ledford v. Peeples

630 F.3d 1345 (11th Cir. 2011) (en banc) · No. 06-10715 · Decided September 23, 2011

SUMMARY

The Eleventh Circuit, sitting en banc, considered only the appellees’ cross-appeal concerning the district court’s denial of sanctions. The court affirmed that ruling, declined to reconsider the panel’s summary-judgment rulings, and remanded the case to the panel to reissue specified portions of its prior opinion.

CASE DETAILS

COURT	United States Court of Appeals for the Eleventh Circuit
WRITING FOR THE COURT	Per curiam; Dubina; Tjoflat; Edmondson; Carnes; Barkett; Hull; Marcus; Wilson; Pryor; Martin
JURISDICTION	Federal
DECIDED	September 23, 2011
DOCKET	06-10715
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed and defendants cross-appealed from the district court's rulings, including denial of defendants' motion for sanctions. The Eleventh Circuit granted rehearing en banc limited to the sanctions issue.
STANDARD OF REVIEW	Abuse of discretion
PRECEDENTIAL VALUE	Published and precedential
PARTIES	Jimmy Ledford, Larry O'Dell, Bryan Walker, Dynavision Group, LLC, Signature Leasing, LLC v. Shelby Peeples, Jr., PFLC, LLC, Internal Management, Inc.

TOPICS

- sanctions
- appellate procedure
- appellate jurisdiction
- summary judgment
- civil procedure

PRACTICE AREAS

- civil procedure
- appellate procedure
- sanctions

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by denying the appellees' motion for sanctions based on paragraphs 64 and 90 of the complaint.
2. What effect the en banc rehearing had on the portions of the prior panel opinion affirming summary judgment that were not reconsidered.

HOLDINGS

1. The appellees did not show that the district court abused its discretion in denying sanctions based on paragraphs 64 and 90 of the complaint.
2. The en banc court did not reconsider the portions of the prior panel opinion affirming the district court's grant of summary judgment to the appellees; those portions were to be reissued by the panel.

KEY QUOTATIONS

"We granted rehearing en banc to consider only the district court's denial of Appellees' motion for sanctions."

"The Court did not reconsider en banc the portions of the panel's May 6, 2010 opinion affirming the district court's grant of summary judgment to Appellees, and therefore the Court remands the case to the panel to reissue Parts I, II, IV, and V of the panel's May 6, 2010 opinion"

FACTUAL BACKGROUND

The plaintiffs' complaint contained paragraphs 64 and 90 that formed the basis of the appellees' sanctions cross appeal. The district court denied the motion for sanctions. On en banc rehearing, the court considered only whether that denial constituted an abuse of discretion.

PROCEDURAL HISTORY

A prior panel opinion affirmed the district court's grant of summary judgment to the defendants. The court sitting en banc vacated that panel opinion and granted rehearing solely to consider the denial of defendants' motion for sanctions. The en banc court affirmed the denial of sanctions as to the cross appeal and remanded the case to the panel to reissue the portions of the prior opinion that had not been reconsidered en banc.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The case was remanded to the panel to reissue Parts I, II, IV, and V of the May 6, 2010 panel opinion, reported at 605 F.3d 871, 877-900, 903-919.

CASES CITED

- Ledford v. Peeples, 605 F.3d 871 (11th Cir. 2010)

OPINION

PER CURIAM.

[PUBLISHED] IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT
 U.S. CIRCUIT OF APPEALS 'ELEVENTH CIRCUIT' NO. 06-10715 JOHNNIE CLERK HMMY
 LEDFORD, LARRY O'DELL, BRYAN WALKER, DYNAVISON GROUP, LLC, SIGNATURE
 LEASING, LLC, _ Plaintiffs-Appellants Cross-Appellees, VCSIS SHELBY PEEPLES, JR.,
 PFLC, LLC, INTERNAL MANAGEMENT, INC., Defendants-Appellees Cross-Appellants.

Appeal from the United States District Court for the Northern District of Georgia Before
 DUBINA, Chief Judge, TJOFAT, EDMONDSON, CARNES, BARKETT, HULL, MARCUS,
 WILSON, PRYOR and MARTIN, Circuit Judges. BY THE COURT: Upon the majority vote of
 the judges in this Court in active service, on January 19, 2011, this Court vacated this panel's prior
 opinion and granted rehearing en banc. _S_ 630 F.3d 1345 (11th Cir.

2011) (en banc); 605 F.3d 871 (11th Cir. 2010), vacated and reh'g en banc granted, 630 F.3d 1345.
 We granted rehearing en banc to consider only the district court's denial of Appellees' motion for
 sanctions. After review and given that the Appellees' panel brief limited their cross appeal on
 sanctions to paragraphs 64 and 90 of the complaint, the en banc court cannot say that Appellees in
 their cross appeal have shown that the district court abused its discretion in denying sanctions.

The Court did not reconsider en banc the portions of the panel's May 6, 2010 opinion affirming
 the district court's grant of summary judgment to Appellees, and therefore the Court remands the
 case to the panel to reissue Parts I, II, IV, and V of the panel's May 6, 2010 opinion, which was
 previously reported as Ledford v. Peeples, 605 F.3d 871, 877-900, 903-19 (11th Cir.

2010). AFFIRMED AS TO CROSS APPEAL. 2