

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Cabell v. Petty

810 F.2d 463 (4th Cir. 1987) · Decided February 5, 1987

SUMMARY

The Fourth Circuit held that plaintiffs' attorney violated Federal Rule of Civil Procedure 11 by filing a civil rights action without an objectively reasonable factual or legal basis. The court ruled that the absence of subjective bad faith did not preclude a finding of violation, although the appropriate sanction remained within the district court's discretion. The judgment denying sanctions was reversed and remanded for further proceedings.

CASE DETAILS

COURT	United States Court of Appeals for the Fourth Circuit
WRITING FOR THE COURT	K.K. Hall
JURISDICTION	Federal
DECIDED	February 5, 1987
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petty appealed the district court's denial of his motion for sanctions and attorney fees under Federal Rule of Civil Procedure 11 after the plaintiffs voluntarily nonsuited their civil-rights action.
STANDARD OF REVIEW	The existence of a Rule 11 violation is evaluated under an objective-reasonableness standard; the selection of an appropriate sanction is committed to the district court's sound discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	William G. Petty v. Joan F. Cabell, administratrix of the estate of Charles Leslie Fitz, and other plaintiffs

TOPICS

- sanctions
- civil procedure
- appellate procedure
- section 1983
- remedies

PRACTICE AREAS

- civil procedure
- civil rights
- appellate procedure
- sanctions

QUESTIONS PRESENTED

1. Whether a Rule 11 violation is determined by the attorney's subjective good faith or by an objective-reasonableness standard.
2. Whether the absence of deliberate harassment or extrinsic bad faith defeats a finding of a Rule 11 violation.
3. Whether a finding of a Rule 11 violation automatically entitles the opposing party to an award of attorney fees.
4. Whether the district court erred by denying sanctions after finding that counsel's conduct bordered on a Rule 11 violation.

HOLDINGS

1. Rule 11 requires the court to determine whether a reasonable attorney in like circumstances could believe that the filing was factually and legally justified. Subjective good faith is not the controlling inquiry.
2. A Rule 11 violation does not require intentional misconduct, deliberate harassment, or extrinsic bad faith. Inexperience, incompetence, willfulness, or deliberate choice may contribute to a violation.
3. A Rule 11 violation requires some sanction, but it does not automatically entitle the opposing party to attorney fees. The district court retains discretion to determine the appropriate sanction.

KEY QUOTATIONS

“If an attorney’s conduct appears to fall within the scope of Rule 11, the court must first examine the actions at issue according to a standard of objective reasonableness.” (466)

“If the standard of objective reasonableness is unsatisfied, sanctions are mandatory.” (466)

“Although the absence of deliberate “harassment” may be a consideration in choosing an appropriate sanction, it is not a factor in determining a violation.” (466)

“While some sanction is required when an infraction occurs, the determination of what is “appropriate” is still a matter left to the sound discretion of the district court.” (467)

FACTUAL BACKGROUND

Harvey G. Watson was convicted of assault with a firearm in 1982, and the shotgun used in that offense was later apparently returned to him. In 1983, Watson used the shotgun in an attack that killed Charles Leslie Fitz and wounded or injured other plaintiffs. The plaintiffs sued Commonwealth's Attorney William G. Petty, alleging that his negligence in failing to seek confiscation of the weapon caused constitutional injuries, even though Petty asserted that he had no personal involvement in Watson's juvenile-court case. Plaintiffs' counsel filed the action despite substantial defenses and later acknowledged at oral argument that the suit had been filed speculatively to locate someone financially liable before the statute of limitations expired.

PROCEDURAL HISTORY

The plaintiffs filed an action under 42 U.S.C. §§ 1981 and 1983 against Petty, the Commonwealth of Virginia, and Harvey Gary Watson. After Petty moved to dismiss, the plaintiffs moved for a voluntary nonsuit, and the district court dismissed the action without prejudice while reserving the issue of sanctions. The district court found that counsel's conduct bordered on a Rule 11 violation but denied attorney fees because there was no extrinsic bad faith and counsel was a sole practitioner. Petty appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must take some action in light of the clear Rule 11 violation and determine an appropriate sanction, reconsidering relevant factors at the sanction-selection stage and imposing a sanction sufficient to educate and deter.

CASES CITED

- Pierson v. Ray, 386 U.S. 547, 87 S. Ct. 1213, 18 L. Ed. 2d 288 (1967)
- Monell v. Department of Social Services, 436 U.S. 658, 98 S. Ct. 2018, 56 L. Ed. 2d 611 (1978)

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