

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No.99-50627

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BYARD EDWARDS, JR.,

Plaintiff-Appellant,

R. GAINES GRIFFIN,

Appellant,

versus

H. L. RICHEY; I. KEITH GORDAN; MARK W. TURNBOUGH,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Texas, Pecos  
Lower Court No. P-98-CV-65

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March 3, 2000

Before JONES, DUHÉ, and WIENER, Circuit Judges.

PER CURIAM:\*

The court has carefully considered this appeal in light of the briefs, oral argument and pertinent portions of the record. The factual basis for the trial court's imposition of sanctions does not appear to be clearly erroneous. We conclude, however, that the amount of sanctions imposed represents an abuse of discretion, given such factors as the short time between plaintiffs' discovery that they were mistaken about the factual basis for the lawsuit and their offer to dismiss the case. Under

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\* Pursuant to 5th Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

all the circumstances, the sanction should not have exceeded \$11,500.00.

The judgment is **AFFIRMED as MODIFIED** to reflect a sanction award of \$11,500.00.