

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-3087
Conference Calendar

ROBERT KALTENBACH,

Petitioner,

versus

BRUCE LYNN, Secretary,
Department of Corrections,
State of Louisiana, Et AL.

Respondents,

RONALD E. DAUTERIVE,

Movant-Appellant.

- - - - -
Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. CA-89-893-A-2
- - - - -

June 22, 1993

Before POLITZ, Chief Judge, WIENER, and DeMOSS, Circuit Judges.

PER CURIAM:*

Federal Rule of Civil Procedure 11 authorizes the imposition of sanctions on an attorney when the attorney signs a pleading or motion "without having first conducted a reasonable inquiry into whether it is well grounded in fact." Elliot v. M/V Lois B., 980 F.2d 1001, 1006 (5th Cir. 1993) (internal quotations and citation omitted). An attorney's compliance with rule 11 is judged by an

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

objective standard of reasonableness under the circumstances.

Id. Factors to be considered in determining whether an attorney has made a reasonable factual inquiry include, the time available to the signer for investigation, the feasibility of a prefiling investigation, whether the signing attorney accepted the case from another attorney, and the complexity of the factual issues. Smith v. Our Lady of the Lake Hospital, 960 F.2d 439, 444 (5th Cir. 1992). The imposition of sanctions is reviewed for an abuse of discretion. Id.

Dauterive signed a motion on November 20, 1991, which represented to the district court, that the District Attorney's office could not produce a record in another Kaltenbach case because the case was pending in this Court. However, the motion contained an attachment reflecting that this Court had taken final action in the case on July 2, 1991. The magistrate judge reprimanded Dauterive and advised Dauterive to pay closer attention to the case. The district court affirmed the imposition of the sanction.

The motion was prepared by another assistant district attorney, who requested that Dauterive sign the motion, because the other assistant was not admitted to practice in the Middle District of Louisiana. Dauterive asserts that he should not have been reprimanded because Dauterive inquired whether the information contained in the motion was correct and the assistant who prepared the motion assured him that it was correct.

The district attorney's file apparently contained a copy of our opinion in the requested record because it was attached to

the motion at the time that it was presented to the district court. A cursory review of the office file by Dauterive would have revealed the inconsistent statement contained in the motion. The district court did not abuse its discretion in reprimanding Dauterive because Dauterive failed to make a reasonable inquiry with respect to the status of the appeal of the case prior to signing the pleading.

AFFIRMED.