

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-5318
Summary Calendar

GLENN T. HAMPTON,
Plaintiff-Appellant,

VERSUS

THOMAS M. HENDERSON, et al.,
Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Louisiana
(93-CV-1011)

(January 3, 1993)

Before GARWOOD, SMITH, and DeMOSS, Circuit Judges.

PER CURIAM:*

Glenn Hampton appeals a sanction. We vacate and remand for slight modification of the sanction.

I.

Proceeding pro se and in forma pauperis (IFP), Hampton filed

* Local Rule 47.5.1 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 Pursuant to that rule, the court has determined that this opinion should not be published.

an action under 42 U.S.C. § 1983 challenging the validity of state court probate proceedings. The district court dismissed the action as frivolous. Noting that "[t]his particular action is just another chapter in Mr. Hampton's long history of filing meritless and frivolous actions," the court also ordered the clerk of the district court to "ACCEPT NO FURTHER PLEADINGS filed by Mr. Hampton in this or any other matter."

II.

Hampton challenges only the appropriateness of the sanction imposed against him. He argues that an absolute bar from filing future pleadings violates his constitutional right to court access.

By signing his complaint, Hampton certified that, after a reasonable inquiry, to the best of his knowledge, information, and belief, the matters contained in his complaint were well-grounded in fact and warranted by existing law. FED. R. CIV. P. 11. Abuse of discretion is the standard of review for whether a rule 11 violation occurred and for the nature of the sanction imposed. Thomas v. Capital Sec. Servs., 836 F.2d 866, 872 (5th Cir. 1988) (en banc).

The district court did not abuse its discretion in determining that a rule 11 sanction should be imposed against Hampton. The court found the present complaint frivolous and noted that it was duplicative of a previous action that had been decided against Hampton. The court also noted a history of abusive litigation. As of September 1993, Hampton had filed sixteen pro se cases as a

prisoner in the Western District of Louisiana. Most of these suits were styled as civil rights actions under § 1983 and, as the district court noted, sought "various types of extraordinary judicial relief." In no case had Hampton been granted the requested relief.

"The imposition of a sanction without a prior warning is generally to be avoided." Moody v. Baker, 857 F.2d 256, 258 (5th Cir.), cert. denied, 488 U.S. 985 (1988). The record does not indicate that Hampton was warned about sanctions in this action. However, because the current, frivolous suit is merely the latest in a "documented history of frivolous filings," such a warning is not a prerequisite to imposing sanctions. See Moody, 857 F.2d at 258.

In Sassower v. Mead Data Cent. Inc., 114 S. Ct. 2 (1993) (per curiam), and Day v. Day, 114 S. Ct. 4 (1993) (per curiam), the Court directed its clerk not to accept filings from the petitioners in noncriminal matters unless they paid the usual fees; thus, they no longer were permitted to proceed IFP, because of their histories of repetitive and frivolous filings. We are aware, however, of no authority approving of a blanket prohibition on filings. In devising sanctions, "the district court must impose the least severe sanction adequate to accomplish the purposes of Rule 11." Akin v. Q-L Invs., 959 F.2d 521, 535 (5th Cir. 1992) (internal quotation and citation omitted).

We vacate and remand so that the district court can consider, in its discretion, whether sanctions like the ones in Sassower and

Day are adequate: disallowing only filings that are IFP and that are in noncriminal proceedings. The petitioner is warned that filing further frivolous or vexatious pleadings can result in sanctions even more severe than these.

VACATED and REMANDED.