

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-20322

GLAZER'S WHOLESALE DRUG COMPANY
and CONTINENTAL INSURANCE COMPANY,

Plaintiffs-Appellees,

VERSUS

M/V JALISCO, et al.,

Defendants,

JAMES E. ROSS,

Movant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
(CA H 92 1901)

August 9, 1995

Before SMITH, WIENER, and DeMOSS, Circuit Judges.

PER CURIAM:*

The district court's contempt order was civil because it was designed to compensate and coerce compliance. The district court's finding that Ross was Hillebrand's attorney was not clearly erroneous. As Hillebrand's attorney, Ross was subject to sanctions

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 Pursuant to that rule, the court has determined that this opinion should not be published.

for interfering with Hillebrand's obeying the court order to answer interrogatories. See Natural Gas Pipeline Co. v. Energy Gathering, Inc., 2 F.3d 1397, 1409-11 (5th Cir. 1993), cert. denied, 114 S. Ct. 882 (1994).

Ross raises several challenges to the type and amount of his contempt sanctions, but we reject these claims as meritless or forfeited by his failure to raise them in the district court. The district court did not abuse its discretion in imposing FED. R. CIV. P. 11 sanctions on Ross: His reassertion of arguments that had been rejected or should have been raised in three previous hearings showed an intent to delay and harass. Nor did the district court abuse its discretion in fixing the amount of the supersedeas bond, in light of the amount of the judgment, costs of appeal, interest, and damages. Because there was no final judgment until the district court, finding that Ross had failed to purge himself, imposed the sanction, the court had jurisdiction to impose the sanctions after the filing of the notice of appeal.

We decline appellees' invitation to disbar Ross, but we order him to show cause why he should not be suspended from the practice of law in federal court pursuant to FED. R. APP. P. 46(b). We also hereby give him notice that we have determined this appeal to be frivolous, and invite him to be heard on the subject of whether the award of just damages and/or single or double costs to the appellee is appropriate under FED. R. APP. P. 38. His response shall be by letter to the clerk postmarked no later than ten days from the date of this opinion. Further conduct of this sort may be grounds for

disbarment. The judgment of the district court is AFFIRMED.