

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

WADE A. ROBERTSON, Plaintiff, v. WILLIAM C. CARTINHOOR, JR., et al., Defendants. Civil Action No. 11-1919 (ESH)

ORDER

For the reasons set forth in the Memorandum Opinion [Dkt. No. 116], it is hereby ORDERED that Cartinhour's motion for sanctions [Dkt. No. 99] is GRANTED as to fees incurred as of February 25, 2011; it is further ORDERED that Cartinhour file unredacted copies of documentation regarding the fees and costs that he seeks within 10 calendar days from the date of this order; and it is further ORDERED that Clevenger may file an opposition 7 calendar days after Cartinhour files the documentation of fees and costs and Cartinhour may file a reply 5 calendar days after Clevenger's filing.

/s/ ELLEN SEGAL HUVELLE United States District Judge

Date: August 10, 2012

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

WADE ROBERTSON, Plaintiff, v. WILLIAM C. CARTINHOOR, JR., et al., Defendants. Civil Action No. 11-1919 (ESH)

MEMORANDUM OPINION & ORDER

By Memorandum Opinion issued on August 10, 2012, this Court determined that sanctions against Ty Clevenger under 28 U.S.C. § 1927 were appropriate given Clevenger’s conduct in the above-captioned case. Robertson v. Cartinhour, No. 11-cv-1919, 2012 U.S. Dist. LEXIS 112289, at \*18 (D.D.C. Aug. 10, 2012). Pursuant to the Court’s Order, defense counsel submitted documentation for the period February 25, 2011, through March 21, 2012, to support an award of \$10,211.92 in expenses and \$113,590.25 in attorney’s fees. (Praecipe (Dkt. No. 118.)

In response, Clevenger objects to the award of sanctions solely on the legal grounds that a lawyer should not be sanctioned under § 1927 when “he merely accede[d] to his client[ ] [Wade Robertson’s] wishes to continue a nonmeritorious claim.” (Objection to the Court’s Proposed Sanctions Order (Dkt. No. 119) (“Clevenger’s Opp’n”) (quoting Hilton Hotels v. Banov, 899 F.2d 40, 45 fn. 9 (D.C. Cir. 1990).) In support, Clevenger has submitted Wade Robertson’s affidavit attesting to the fact that he “insisted that . . . [Clevenger] continue prosecuting this case . . . .” and that Robertson “believe[d] this case to be meritorious.” (Clevenger’s Opp’n., Ex. 1.)



Cartinhour has filed a reply. (William Cartinhour's Reply to Ty Clevenger's August 24, 2012 Pleading (Dkt. No. 120).)

Based on the record before the Court, as well as for the reasons stated in its Memorandum Opinion of August 10, 2012, the Court concludes that Clevenger has not raised any issue as to the reasonableness of the fees and costs, but instead, he relies on the erroneous assumption that he cannot be liable for sanctions under § 1927 if he accedes to his client's wishes to continue a nonmerituous claim. This response is both factually and legally wrong.

First, it is clear from this Court's opinion that Clevenger cannot hide behind Robertson. His own conduct constituted "bad faith and [an] utter disregard for the judicial system." *Robertson*, 2012 U.S. Dist. LEXIS 112289, at \*18. It was Clevenger's needless filings and pattern of groundless and vexatious litigation, whether at Robertson's behest or not, that contributed to wasted time and resources by Cartinhour and the Court. In addition, as defendant correctly argues, *Hilton Hotels* does not immunize a lawyer from § 1927. After the jury rendered its verdict, Clevenger had no good faith basis to proceed with Robertson's outlandish legal and factual positions, nor can he justify his actions by claiming that he had to "appease [his] client[]." *In re TCI Ltd.*, 769 F.2d 441, 447 (7th Cir. 1985). In short, *Hilton Hotels*, which was a Rule 11 case, not a § 1927 case, does not help Clevenger. No matter how stringent a standard is imposed, *see United States v. Wallace*, 964 F.2d 1214, 1218-19 (D.C. Cir. 1992), and *LaPrade v. Kidder Peabody & Co.*, 146 F.3d 899, 905 (D.C. Cir. 1998), Clevenger has violated that standard and sanctions are warranted.

Accordingly, the Court awards sanctions in the sum of \$123,802.17 (\$113,590.25 for fees

and \$10,211.92 for costs) to be paid on or before September 30, 2012.

/s/

ELLEN SEGAL HUVELLE  
United States District Judge

Date: August 30, 2012

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

WADE ROBERTSON, Plaintiff, v. WILLIAM C. CARTINHOOR, JR., et al., Defendants. Civil Action No. 11-1919 (ESH)

MEMORANDUM OPINION & ORDER

Before the Court is Ty Clevenger’s Rule 59 Motion and Objections [ECF No. 122]. Cartinhour has opposed this motion [ECF No. 123] and Clevenger has filed a reply [ECF No. 124]. For the reasons set forth herein, the motion is DENIED.

First, Clevenger wants the Court to correct allegedly false statements in its Memorandum Opinion of August 10, 2012, wherein it concluded that sanctions were appropriate. (See Mem. Op., Aug. 10, 2012 [ECF No. 116]; see also Order, Aug. 10, 2012 [ECF No. 117].) Clevenger takes issue with this Court’s quotation of Judge Lamberth’s opinion (see Mot. at 1) and characterization of Judge Swain’s decision. (See Mot. at 2.) The Court correctly quoted both decisions (see 8/10/2012 Mem. Op. at 2, 8), and its characterization of Judge Swain’s opinion is entirely reasonable. It therefore sees no basis to amend its August 10, 2012 Memorandum Opinion.

Second, the Court has ruled that Clevenger has not been denied his due process rights, and his subjective beliefs about the merits of Robertson II do not change the Court’s conclusion. Moreover, any further discovery regarding whether Cartinhour incurred these fees is both



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