

OCT 15 1997

PATRICK FISHER
Clerk

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

SAID M. KARARA,

Plaintiff-Appellant,

v.

ANDREW F. CZOPEK and
SHEILA R. DEITZ,

Defendants-Appellees.

No. 96-1546
(D.C. No. 94-Z-1698)
(D. Colo.)

ORDER AND JUDGMENT*

Before TACHA, MCKAY, and BALDOCK, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Plaintiff appeals the district court's denial of his motion for sanctions pursuant to Fed. R. Civ. P. 11. Plaintiff filed the motion after this court reversed an award of Rule 11 sanctions in favor of defendants due to their failure to comply with the procedural requirements of Rule 11. See Karara v. Czopek, No. 95-1361 (10th Cir. June 6, 1996).

Upon consideration of plaintiff's Rule 11 motion, the district court determined that it had no merit, because (1) the reversal was based solely on defendants' failure to comply with the procedural requirements of Rule 11; (2) the district court would have had inherent authority to impose sanctions against plaintiff apart from Rule 11; and (3) the dismissal of the underlying action was affirmed by the Tenth Circuit in all respects. Despite having analyzed the motion on its merits, the district court dismissed plaintiff's Rule 11 motion as moot.

After reviewing the record, and especially the district court's language in its order denying plaintiff's Rule 11 motion, we conclude that, while the motion technically was not moot, the district court alternatively and properly exercised its discretion to deny the motion on its merits. See also Barrett v. Tallon, 30 F.3d 1296, 1301 (10th Cir. 1994) (reviewing district court's Rule 11 determination for abuse of discretion).

The judgment of the United States District Court for the District of Colorado is AFFIRMED. The mandate shall issue forthwith.

Entered for the Court

Monroe G. McKay
Circuit Judge