FILED
United States Court of Appeals
Tenth Circuit

June 23, 2023

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

EYOEL-DAWIT MATIOS, et al., in sui juris capacity,

Plaintiff - Appellant,

v.

CITY OF LOVELAND, et al., in care of Stephen C. Adams, City Manager,

Defendant - Appellee.

No. 22-1394
(D.C. No. 1:21-CV-02194-WJM-NRN)
(D. Colo.)

ORDER AND JUDGMENT*

Before **HARTZ**, **TYMKOVICH**, and **MATHESON**, Circuit Judges.

Eyoel-Dawit Matios, proceeding pro se, appeals from the district court's order imposing monetary sanctions under its inherent powers. Exercising jurisdiction under 28 U.S.C. § 1291, we affirm.

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* After examining the briefs and appellate record, this panel has determined unanimously to honor the parties' request for a decision on the briefs without oral argument. *See* Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore 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 This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

I. BACKGROUND

After receiving a speeding ticket, Mr. Matios unilaterally obtained a purported $300 million arbitration award against the City of Loveland (the "City") from Brett "Eeon" Jones of Sitcomm Arbitration Association. He then filed a petition in district court to confirm the award. *See Matios v. City of Loveland* (*Matios I*), No. 22-1047, 2022 WL 2734270, at *1-2 (10th Cir. July 14, 2022) (unpublished). The City filed a motion to vacate the award and dismiss the action, which the district court referred to a magistrate judge for a recommendation.

In addressing the City's motion, the magistrate judge stated, "It is clear on the face of the materials submitted by Mr. Matios that there was no valid agreement between him and the City," and "[t]he City never agreed to arbitrate anything." R. Vol. I at 351. He therefore recommended that the district court deny the petition to confirm and grant the City's motion to vacate the award. He further said that "Mr. Matios' instant attempt to enforce in federal court this non-existent arbitration 'contract' and the accompanying patently ridiculous $300 million arbitration award is fraudulent, an undue imposition on the City, and an extreme waste of judicial resources." *Id.* at 353. Noting the City's motion to dismiss also requested an award of attorney fees, he stated that "Mr. Matios' entire course of conduct in this case demonstrates objective bad faith." *Id.* at 356. But he recognized the City had to file a separate sanctions motion before the court could award fees.

The City then moved for an award of attorney fees under the court's inherent powers. The district court referred that non-dispositive motion to the magistrate judge for decision. While the sanctions motion was pending before the magistrate judge, the district court accepted the recommendation to deny the petition and vacate the arbitration award, finding that the City never agreed to arbitrate. Its dismissal order did not discuss fees. Mr. Matios appealed.

After Mr. Matios filed his notice of appeal, the magistrate judge granted the motion for sanctions, stating he had "already determined that [] Mr. Matios' prosecution of this case was frivolous, without any basis in fact, and conducted in bad faith." *Id.* at 478. "Though Mr. Matios' procurement of the fraudulent arbitration award necessarily occurred before the litigation, his attempt to have this Court confirm the fraudulent arbitration award is *itself* an abuse of the litigation process that merits the imposition of sanctions." *Id.* at 478-79. He ordered an award of $11,764.50 to the City. Mr. Matios timely objected.[1] The district court upheld the sanctions order and rejected other pending motions.

In the meantime, in Mr. Matios's appeal from the dismissal order, this court held that the district court had no subject matter jurisdiction to entertain the petition

[1] In addition to objecting, Mr. Matios filed a notice of appeal from the magistrate judge's order. We dismissed that appeal for lack of prosecution. *Matios v. City of Loveland*, No. 22-1125, 2022 WL 13631881, at *1 (10th Cir. May 11, 2022) (unpublished).

to confirm and directed it to dismiss for lack of jurisdiction. *See Matios I*, 2022 WL 2734270, at *2-3. On remand, following our directive, the district court vacated its prior order and dismissed the petition without prejudice.[2]

Mr. Matios now appeals from the district court's post-judgment order imposing sanctions.[3]

II. DISCUSSION

Because Mr. Matios proceeds pro se, we construe his filings liberally. *See Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005). But we do not act as his attorney, and we expect him to "follow the same rules of procedure that govern other litigants." *Id.* (internal quotation marks omitted).

"Federal courts possess certain inherent powers, not conferred by rule or statute, to manage their own affairs so as to achieve the orderly and expeditious disposition of cases. That authority includes the ability to fashion an appropriate sanction for conduct which abuses the judicial process." *Goodyear Tire & Rubber Co. v. Haeger*, 581 U.S. 101, 107 (2017) (citation and internal quotation marks

[2] Mr. Matios filed a notice of appeal from the district court's order on remand. We dismissed that appeal because the district court simply had followed this court's mandate, as it was required to do. *Matios v. City of Loveland*, No. 22-1242, 2022 WL 18673240, at *1 (10th Cir. Nov. 17, 2022) (unpublished).

[3] This appeal is limited to the district court's sanctions order. To the extent that Mr. Matios raises arguments outside the scope of this appeal, including the district court's jurisdiction to consider his petition to confirm the arbitration award and the merits of that petition, we do not address them.

omitted). It is well-established that "a court may assess attorney's fees when a party has acted in bad faith, vexatiously, wantonly, or for oppressive reasons." *Chambers v. NASCO, Inc.*, 501 U.S. 32, 45-46 (1991) (internal quotation marks omitted). But "[b]ecause of their very potency, inherent powers must be exercised with restraint and discretion." *Id.* at 44.

We review an inherent-powers sanction for abuse of discretion. *See Farmer v. Banco Popular of N. Am.*, 791 F.3d 1246, 1256 (10th Cir. 2015). "A district court abuses its discretion when it (1) fails to exercise meaningful discretion, such as acting arbitrarily or not at all, (2) commits an error of law, such as applying an incorrect legal standard or misapplying the correct legal standard, or (3) relies on clearly erroneous factual findings." *Id.*

Mr. Matios incorrectly states the district court lost jurisdiction to consider the attorney fees motion while *Matios I* was pending. *See Lancaster v. Indep. Sch. Dist. No. 5*, 149 F.3d 1228, 1237 (10th Cir. 1998) ("Attorney's fees awards are collateral matters over which the district court retains jurisdiction.").[4] He also incorrectly states that arbitration matters are not subject to the Federal Rules of Civil Procedure. The civil rules apply in arbitration cases "except as [United States Code Title 9]

[4] Moreover, the district court had jurisdiction to order sanctions even though *Matios I* held it lacked subject matter jurisdiction to consider the petition to confirm. *See Willy v. Coastal Corp.*, 503 U.S. 131, 137-39 (1992).

provide[s] other procedures." Fed. R. Civ. P. 81(a)(6)(B). Mr. Matios has not identified any such "other procedures" that would apply.

Mr. Matios's arguments regarding the magistrate judge's participation in the sanctions matter similarly are meritless.

- The magistrate judge had authority to consider the matter under 28 U.S.C. § 636(b);
- Mr. Matios's consent was not required for the district court to refer the non-dispositive sanctions motion to the magistrate judge under § 636(b)(1)(A) and Federal Rule of Civil Procedure 72(a);
- The magistrate judge had the authority to order Mr. Matios to attend a status conference regarding the City's motion to dismiss;
- The district court's silence as to fees in its dismissal order did not preclude the magistrate judge from granting the City's separate motion for attorney fees;
- Mr. Matios's allegations of prejudice are insufficient because they are based only on the magistrate judge's rulings against him, *see Liteky v. United States*, 510 U.S. 540, 555 (1994); and
- Mr. Matios was not denied due process, given that he had notice and an opportunity to respond, *see Braley v. Campbell*, 832 F.2d 1504, 1514 (10th Cir. 1987) (en banc).

Mr. Matios also asserts the district court made no findings that he engaged in bad faith or fraud, and he "emphatically denies that his actions in pursuing confirmation of his arbitration award constituted fraud or bad faith," Aplt. Opening Br. at 13. But the magistrate judge made ample findings of bad faith and fraud to support an inherent-powers sanction. The district court was not required to make its

own findings. It instead properly reviewed the magistrate judge's findings for clear error. *See* Fed. R. Civ. P. 72(a); 28 U.S.C. § 636(b)(1)(A).[5]

Contrary to Mr. Matios's contention that the court's sanction authority does not extend to prelitigation conduct, we have allowed inherent-powers sanctions where prelitigation misconduct influenced or extended into the court proceedings. *See Xyngular v. Schenkel*, 890 F.3d 868, 873 (10th Cir. 2018). And the award, which was tailored to the City's costs for being hauled into federal court, was compensatory rather than punitive.[6]

Finally, Mr. Matios denounces various district court and appellate orders as fraudulent. His unsupported, speculative accusations are insufficient to undermine those orders. Moreover, we disfavor attempts to "impugn (without basis) the integrity of the district judge" and the courts' staff. *Garrett*, 425 F.3d at 841.

III. **CONCLUSION**

We affirm the district court's order imposing sanctions. We grant Mr. Matios's motion to supplement the record on appeal and direct the Clerk to

[5] Mr. Matios incorrectly argues that the district court was required to apply de novo review. Because the request for fees was a non-dispositive motion, the standards set forth in Rule 72(a) and § 636(b)(1)(A) apply. *See Ocelot Oil Corp. v. Sparrow Indus.*, 847 F.2d 1458, 1465 (10th Cir. 1988).

[6] Mr. Matios does not challenge the reasonableness of either the time expended or the rates charged.

compile in a supplemental record on appeal the requested documents that are not already included in the record on appeal.[7]

Entered for the Court

Scott M. Matheson, Jr.
Circuit Judge

[7] In its response brief, the City requests an award of appellate attorney fees. We deny the request because it was not made by separate motion. *See* Fed. R. App. P. 38 (allowing the court to award damages and costs for a frivolous appeal upon "a separately filed motion"); *Abeyta v. City of Albuquerque*, 664 F.3d 792, 797 (10th Cir. 2011) ("A statement inserted in a party's brief that the party moves for sanctions is not sufficient notice." (internal quotation marks omitted)).

The City's brief also asks that this court "specifically indicate the amount of post-judgment interest to which the City is entitled" and "issue a date by which Mr. Matios is required to satisfy the sanction imposed." Aplee. Resp. Br. at 27. Such requests are better directed to the district court in the first instance.