

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 06-10343
Non-Argument Calendar

<p>FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT August 21, 2006 THOMAS K. KAHN CLERK</p>
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D. C. Docket No. 03-81059-CV-DTKH

THOMAS E. TURNER,

Plaintiff-Appellee,

versus

SHERIFF OF PALM BEACH COUNTY,
Ric L. Bradshaw, Sheriff,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida

(August 21, 2006)

Before ANDERSON, MARCUS and WILSON, Circuit Judges.

PER CURIAM:

Defendant appeals the district court's order denying his motion for

attorney's fees. Defendant claims that the district court abused its discretion in refusing to award attorney's fees because it erred as a matter of law in finding that the appellee's lawsuit did not meet the frivolity standards of applicable case law.

Appellant misconstrues the nature of the district court's order. The district court did not commit error as a matter of law. On the contrary, the district court accurately stated the applicable case law, and the decision to deny the motion was an exercise of the district court's broad discretion to determine whether a prevailing party should be awarded attorney's fees. Having reviewed the record and the pleadings of the parties in the case, the district court reasoned that appellee's "continued pursuit of his employment discrimination claim" was not so unreasonable as to satisfy the governing standards of frivolity. This was an interpretation of the facts and circumstances surrounding the case, not an erroneous application or interpretation of the applicable case law. In light of the evidence, especially that with respect to comparator Kronsperger, we conclude that the district court did not abuse its discretion. Accordingly, the order of the district court must be

AFFIRMED.¹

¹ Appellant's Motion for Leave to File a Reply Brief Out of Time is granted.