

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 10-15109
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT AUG 16, 2011 JOHN LEY CLERK

D.C. Docket No. 3:08-cv-00591-SLB

YOLANDA J. FAULK,

Plaintiff,

MIKE WEATHERS,

Interested Party-Appellant,

versus

VOLUNTEERS OF AMERICA, NORTH ALABAMA, INC.,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Alabama

(August 16, 2011)

Before WILSON, MARTIN and ANDERSON, Circuit Judges.

PER CURIAM:

Michael Weathers, who served as Yolanda J. Faulk's counsel in her employment discrimination lawsuit filed against Volunteers of North America, appeals the district court's sanctions order, comprised of two separate sanctions for two different instances of making misrepresentations in connection with motions to compel that he filed on her behalf. His first misrepresentation concerned the nature of his client's visit to defense counsel, which was made in pleadings related to his first motion to compel, and his second misrepresentation concerned his certification that he conferred in good-faith with defense counsel to resolve a discovery dispute before filing another motion to compel.

On appeal, Weathers argues that the court erred by imposing sanctions against him because: (1) it shifted its basis of authority, which violated his due process rights; (2) it misapplied Fed. R. Civ. P. 37(a)(5)(B) for his conduct in filing his first motion to compel; (3) his motions to compel were substantially justified; and (4) there were other circumstances it failed to consider that made the sanction unjust.

We review a district court's decision to impose sanctions for an abuse of discretion. *See Amlong & Amlong, P.A. v. Denny's, Inc.*, 500 F.3d 1230, 1237-38 (11th Cir. 2007) (sanctions under court's inherent authority). *Serra Chevrolet*,

Inc. v. Gen. Motors Corp., 446 F.3d 1137, 1146-47 (11th Cir. 2006) (sanctions under Fed. R. Civ. P. 37).

We have fully considered the briefs and the record. The district court's findings that Weathers failed to comply with the Federal Rules of Civil Procedure with regard to his discovery requests are supported by the record. The court gave Weathers sufficient notice and opportunity to be heard before imposing sanctions and acted well within its inherent authority, independent of Fed. R. Civ. P.

37(a)(5)(B), in imposing sanctions for the discovery violations. And to the extent that Weathers claims that the court should have considered other circumstances demonstrating that a sanction award is unjust, those arguments were not made to the district court in the first instance and are therefore waived. After full consideration of Weathers's claims, we find no abuse of discretion on the part of the district court.

AFFIRMED.