

PUBLISH

FILED
United States Court of Appeals
Tenth CircuitUNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

NOV 29 1993

ROBERT L. HOECKER
Clerk

IN RE:

DAVID L. SMITH

No. 93-631

ORDER

Before: SEYMOUR, BALDOCK and BRORBY, Circuit Judges.

Respondent was ordered to show cause why he should not be fined, disbarred or otherwise disciplined for filing frivolous appeals in numbers 93-1070 and 93-1139, Deherrera v. Denver, after the entry of this court's orders in Sandlin v. Canady (In re Canady), No. 92-1169 (10th Cir. April 27, 1993) and Dunkin v. Louisiana-Pacific Corp., Nos. 92-1230 & 92-1381 (10th Cir. February 11, 1993), cert. denied, 114 S.Ct. 87 (October 4, 1993) (No. 92-1994) and for filing a frivolous appeal in Casillan v. Regional Transportation District, Nos. 92-1009 & 92-1039 (10th Cir. January 15, 1993). Respondent maintains the appeals were not frivolous. We disagree.

The appeals were found to be frivolous by the panels who decided them. We cannot overrule the judgment of another panel of this court. We are bound by the precedent of prior panels absent en banc reconsideration or a superseding contrary decision by the Supreme Court. United States v. Killion, No. 92-3130, 1993 WL 408150 (10th Cir. October 13, 1993); United States v. Spedalieri, 910 F.2d 707, 710 n.3 (10th Cir.1990) (a three-judge panel cannot

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overrule circuit precedent); United States v. Berryhill, 880 F.2d 275, 277 (10th Cir. 1989), cert. denied, 493 U.S. 1049 (1990).

Respondent filed a petition for certiorari in Dunkin. The question presented for review was,

"Whether an order sanctioning counsel currently of record is immediately appealable under the collateral order exception rule established by this Court in Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 69 S.Ct. 1221, 93 L.Ed. 1528 (1949).

Whether sanctions may be imposed against counsel for filing appeals warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law."

Petition for certiorari, attached to appellant's motion to recall and stay the mandate filed July 12, 1993, in Dunkin v. Louisiana-Pacific Corp., Nos. 92-1230 & 92-1381 (10th Cir. February 11, 1993). Certiorari was denied without comment. Dunkin and Smith v. Louisiana-Pacific Corp., ___ U.S. ___, 114 S.Ct. 87 (October 4, 1993) (No. 92-1994).

At oral argument, respondent admitted that he has not paid any of the sanctions that have been imposed on him by this court or the district court. David L. Smith is suspended from the practice of law before this court until all sanctions are paid. He may apply for reinstatement to our bar when he can demonstrate that each sanction order of this court or the district court has been satisfied.

The clerk shall provide a copy of this order to all courts before which Mr. Smith has been admitted to practice.

Entered for the court
PER CURIAM