

July 28, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-10052  
Summary Calendar

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DRUCILLA BAKER,

Plaintiff-Appellant,

versus

JOSEPH B. BOGAN, Warden, Federal Medical Center-Carswell,  
in his individual capacity, ET AL.,

Defendants,

JOHN T. RATHMAN, Associate Warden, Federal Medical Center-  
Carswell, in his individual capacity; LOREN THACKERA, Facilities  
Manager, Federal Medical Center-Carswell, in his individual  
capacity; TERRY DAVIS, Facilities Supervisor, Federal Medical  
Center-Carswell, in his individual capacity; ROBERT BRACKEN,  
Safety Manager, Federal Medical Center-Carswell, in his  
individual and official capacity; R. VASLIK, Safety Manager,  
Federal Medical Center-Fort Worth, in his individual capacity,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:02-CV-817-A  
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Before SMITH, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:\*

Drucilla Baker, federal prisoner # 13571-064, appeals the  
district court's judgment dismissing her claims under Bivens v.

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that  
this opinion should not be published and is not precedent except  
under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971). Baker argues that the district court erred in its determination that her claims were barred by the statute of limitations. She argues that the district court should have tolled the limitations period while she had a Federal Tort Claims Act claim pending with the Federal Bureau of Prisons. Baker did not raise this issue in the district court and therefore this court need not consider it. See Leverette v. Louisville Ladder Co., 183 F.3d 339, 342 (5th Cir. 1999). Moreover, even if this court would allow tolling of the limitations period while the Federal Tort Claims Act claim was pending, Baker's complaint would still be untimely.

For the foregoing reasons, the judgment of the district court is AFFIRMED.