

December 9, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-10440  
Conference Calendar

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TRACEY DEMARK GARRETT,

Plaintiff-Appellant,

versus

CHUCK NORRIS, also known as Carlos Ray Norris;  
AARON NORRIS; BOB GORKIN; MORRIS BROTHERS; CLERANCE GILYARD,  
ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:01-CV-1566-D  
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Before DAVIS, EMILIO M. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:\*

Tracey Garrett, federal prisoner no. 31079-077, appeals the dismissal as frivolous under 28 U.S.C. §§ 1915(e)(2) and 1915A of his action brought pursuant to Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971). Garrett alleged that actor Chuck Norris and numerous employees of the television show "Walker, Texas Ranger" violated his civil rights by acting as federal law enforcement officers, arresting and

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

harassing him on camera, and causing humiliating photographs of him to be published in People magazine.

Garrett's action is time-barred and was properly dismissed as frivolous. See Gonzales v. Wyatt, 157 F.3d 1016, 1019-20 (5th Cir. 1998). In addition, Garrett's attempts to argue on appeal for tolling the limitation period or beginning it at a later date lack any arguable merit. Accordingly, this appeal is DISMISSED AS FRIVOLOUS. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2.

The district court's dismissal and the dismissal of this appeal as frivolous both count as strikes for the purposes of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 385-87 (5th Cir. 1996). We caution Garrett that once he accumulates three strikes, he may not proceed in forma pauperis in any civil action or appeal filed while he is incarcerated unless he is under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

APPEAL DISMISSED; THREE-STRIKES WARNING ISSUED.