

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 99-41212  
Summary Calendar

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JESSE WARE,

Plaintiff-Appellant,

versus

WAYNE SCOTT, Director, Texas Department of  
Criminal Justice, Institutional Division; GARY L. JOHNSON,  
DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL  
DIVISION; ORLANDO PEREZ, Warden; MARK DIAZ, Warden; UNIDENTIFIED  
PARTY, Major; UNIDENTIFIED PARTY, Captain; UNIDENTIFIED PARTY,  
Lieutenant; UNIDENTIFIED PARTY, Sergeant; UNIDENTIFIED PARTY,  
Correctional Officer III; UNIDENTIFIED PARTY, Correctional  
Officer III; UNIDENTIFIED PARTY, Correctional Officer III;  
UNIDENTIFIED PARTY, Correctional Officer III; UNIDENTIFIED PARTY,  
Correctional Officer III; WILLIAM BOOTH, Warden; SIMPSON, DR.;  
VERNON PITTMAN; CRYSTAL MCCOY; R. MEY, DR.; K. BLACKWELL, Nurse,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. C-98-CV-16  
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April 3, 2001

Before SMITH, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:\*

Jesse Ware, Texas prisoner #395442, appeals from the jury  
verdict finding that his civil-rights lawsuit filed pursuant to 42  
U.S.C. § 1983 was barred by limitations. He argues that: (1) his  
lawsuit was erroneously transferred from the Eastern District of

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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that this opinion should not be published and is not precedent  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.

Texas to the Southern District of Texas, Corpus Christi Division; (2) the magistrate judge's sua sponte order of a jury trial to determine the limitations issue was an abuse of discretion; and (3) the magistrate judge failed to apply the correct statute of limitations.

The magistrate judge did not abuse her discretion by transferring the lawsuit to the Southern District, Corpus Christi Division, where the relevant incidents occurred and all the defendants were located. See Casarez v. Burlington Northern/Santa Fe Co., 193 F.3d 334, 339 (5th Cir. 1999). The magistrate judge's order of a jury trial to determine the limitations issue was not an abuse of discretion because it did not conflict with the district court's previous decision denying three of the defendants' motions to dismiss or for summary judgment based on limitations. Although the district court denied such motions because it held that the defendants had not produced sufficient evidence that Ware's complaint had been untimely, such denial did not determine that Ware's complaint was timely. Furthermore, the magistrate judge properly applied to Ware's claims the Texas statute of limitations utilized for medical injury claims. See Harris v. Hegmann, 198 F.3d 153, 156 (5th Cir. 1999).

Accordingly, the district court's judgment of dismissal is AFFIRMED. Ware's motion for leave to submit documentary evidence is DENIED.