

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-40401  
Conference Calendar

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ROBERT L. WILLIAMS, III,

Plaintiff-Appellant,

versus

BRADSHAW STATE JAIL, Facility Health Administrator,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 6:01-CV-43  
- - - - -  
December 11, 2001

Before HIGGINBOTHAM, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:\*

Robert L. Williams, III, a Texas prisoner (# 680652),  
appeals from the dismissal of his pro se, in forma pauperis  
("IFP") civil rights action as frivolous under 28 U.S.C.  
§ 1915(e)(2)(B). The court dismissed the complaint, which was  
filed on January 26, 2001, and which concerned injuries allegedly  
inflicted by the defendant on January 21, 1999, because it was  
barred by the applicable two-year Texas statute of limitations.  
A district court may sua sponte dismiss a complaint as frivolous

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that this opinion should not be published and is not precedent  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

on statute-of-limitations grounds where "it is clear from the face of a complaint that the claims asserted are barred by the applicable statute of limitations." Moore v. McDonald, 30 F.3d 616, 620 (5th Cir. 1994). For § 1983 claims, federal courts apply the general personal injury statute of limitations of the forum state, Owens v. Okure, 488 U.S. 235, 249-50 (1989), which is two years in Texas. See Piotrowski v. City of Houston, 237 F.3d 567, 576 (5th Cir. 2001), cert. denied, 122 S. Ct. 53 (2001); TEX. CIV. PRAC. & REM. CODE ANN. § 16.003(a) (West 1999).

The district court did not abuse its discretion in concluding that Williams' complaint was not filed within the applicable two-year limitations period. Because Williams' appeal is without arguable merit, the appeal is DISMISSED as frivolous. 5TH CIR. R. 42.2; see Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). The dismissal of the instant appeal as frivolous and the district court's dismissal of his § 1983 complaint as frivolous each count as a "strike" under the three-strikes provision of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 387 (5th Cir. 1996). Williams is cautioned that, once he accumulates three strikes, he may not proceed IFP in any civil action or appeal filed while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

APPEAL DISMISSED; SANCTION WARNING ISSUED.