

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-3819
Conference Calendar

EDWARD OGLETREE,

Plaintiff-Appellant,

versus

CHARLES C. FOTI, JR., ET AL.,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. CA-92-2380
- - - - -

May 6, 1993

Before POLITZ, Chief Judge,
HIGGINBOTHAM, and DEMOSS, Circuit Judges.

PER CURIAM:*

A district court may dismiss an action filed in forma pauperis (IFP) if it is legally or factually frivolous. Denton v. Hernandez, ___ U.S. ___, 112 S. Ct. 1728, 1731, 118 L. Ed. 2d 340 (1992). A legally frivolous action is one based on an "indisputably meritless legal theory." Neitzke v. Williams, 490 U.S. 319, 327, 109 S. Ct. 1827, 104 L. Ed. 2d 338 (1989).

The magistrate judge recommended dismissing Edward Ogletree's action because the applicable statute of limitations

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

barred it. Because no federal statute of limitations exists for section 1983 suits, federal courts must borrow the forum state's general personal injury limitations period for section 1983 suits. Jackson v. Johnson, 950 F.2d 263, 265 (5th Cir. 1992). In Louisiana, the limitations period for all personal injury actions is one year. Elzy v. Roberson, 868 F.2d 793, 794 (5th Cir. 1989).

Federal law determines the accrual of a cause of action under section 1983. Burrell v. Newsome, 883 F.2d 416, 418 (5th Cir. 1992). The limitations period begins to run when the plaintiff knows or has reason to know of the injury from which he brings his suit. Id. Although the alleged deprivations of Ogletree's constitutional rights arose in 1988, he did not file this action until July 16, 1992. Ogletree does not allege that he was precluded from learning of his alleged injuries at the time the fire occurred or within the one-year limitations period. Ogletree's own allegations indicate that he was aware of the alleged deprivations of his civil rights at the time the fire broke out. His claims, therefore, are barred.

Ogletree also argues that federal courts should not treat IFP complaints differently. This complaint lacks merit. See Denton v. Hernandez, 112 S. Ct. at 1733.

AFFIRMED.