

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-4669
Summary Calendar

DAVID C. GONZALES,

Plaintiff-Appellant,

versus

P. ROSS, Disciplinary Captain, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
CA9 92 5

March 15, 1993

Before GARWOOD, JONES, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Stripping away the numerous procedural shortcomings in which this appeal is brought to us, the essence of Gonzales' complaint is that he was wrongfully punished as the result of an unconstitutional disciplinary hearing in the TDCJ. The disciplinary proceedings he challenges were held on December 13, 1989. He filed suit on January 9, 1992. In § 1983 cases, the

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

federal courts employ the state statute of limitations, which is in this case two years. Tex. Civ. Proc. & Rem. Code Ann. § 16.003(a) (West 1986); Burrell v. Newsome, 883 F.2d 416, 418 (5th Cir. 1989). This lawsuit was filed some weeks after the two-year deadline elapsed, and it was therefore barred by the statute of limitations, as the magistrate judge held.

The procedural challenges that Gonzales raises against the district court are meritless. Because his complaint was time-barred, the district court properly dismissed it as frivolous pursuant to 28 U.S.C. § 1915(d).

AFFIRMED.