

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-4925  
Conference Calendar

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CURTIS SHABAZZ,

Plaintiff-Appellant,

versus

JAMES COLLINS, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 6:92 cv 81  
- - - - -  
March 18, 1993

Before KING, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:\*

Following an altercation with officer Elton Johnson, Curtis Shabazz was found guilty of a disciplinary violation and was confined to administrative segregation and lost his good-time status. A state indictment for aggravated assault was also filed against him. Shabazz filed a § 1983 complaint alleging he was confined in administrative segregation without due process. The district court held that Shabazz was challenging the duration of his confinement; therefore, the appropriate remedy was a petition for writ of habeas corpus. The court dismissed the complaint

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

without prejudice for failure to exhaust state remedies and suspended the statute of limitations on his § 1983 claims for one year after he exhausted his state habeas corpus remedies.

The writ of habeas corpus is the appropriate federal remedy for a state prisoner challenging the fact or duration of confinement. Preiser v. Rodriguez, 411 U.S. 475, 490, 93 S.Ct 1827, 36 S.Ct. 439 (1973). A § 1983 action is the appropriate remedy for recovering damages for mistreatment or for illegal administrative procedures. Richardson v. Fleming, 651 F.2d 366, 372 (5th Cir. 1981). To determine which remedy a prisoner should pursue, the Court looks beyond the relief sought to determine whether the claim, if proved, would factually undermine or conflict with the validity of the fact or length of confinement. Id. at 373.

Shabazz is challenging his confinement in administrative segregation, the resulting denial of good-time credits, and the state prosecution for aggravated assault. These claims effect the validity of the fact and duration of his confinement; the district court properly construed his complaint as a petition for writ of habeas corpus and dismissed it for failure to exhaust his state remedies. See 28 U.S.C. §§ 2254(b), (c). The court also properly suspended the statute of limitations on his § 1983 claims pending exhaustion of his state remedies. See Rodriguez v. Holmes, 963 F.2d 799, 803-05 (5th Cir. 1992).

AFFIRMED.