

UNITED STATES COURT OF APPEALS  
for the Fifth Circuit

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No. 93-1373  
Summary Calendar

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RAMON X. EVANS,

Plaintiff-Appellant,

VERSUS

DALLAS COUNTY SHERIFF,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
(3:92 CV 1626 T)

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September 3, 1993

Before DAVIS, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:<sup>1</sup>

BACKGROUND

Appellant, Ramon X. Evans, filed a pro se, in forma pauperis civil rights complaint alleging he was denied an opportunity to practice Islam while incarcerated at the Dallas County Jail between April 9 and August 30, 1990. In his amended complaint, Evans also alleged an equal protection violation because Christian and Jewish inmates were permitted to practice their religion freely. Evans named as defendants the Dallas County Sheriff's Department, the

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<sup>1</sup> 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

unnamed "Head Warden" of the Dallas County Jail, the unnamed "Assistant Warden(s)" of the Dallas County Jail, the unnamed "Head(s)" of the Dallas County Jail "Religious Department," the unnamed "Officials" of the Dallas County "Jail System," the unnamed "Head(s)" of the Dallas County Jail "Grievance Department" and the unnamed "Person(s)" with authority to make policy in the Dallas County Sheriff's Department. The district court, adopting the magistrate's findings, conclusions and recommendations, held that the violations that occurred before July 22, 1990 were time-barred, and dismissed the remaining claims as frivolous. We affirm.

#### DISCUSSION

A complaint filed in forma pauperis can be dismissed sua sponte if the complaint is frivolous. 28 U.S.C. § 1915(d); Cay v. Estelle, 789 F.2d 318, 323 (5th Cir. 1986). A complaint is frivolous if it lacks an arguable basis in law or fact. Ancar v. Sara Plasma, Inc., 964 F.2d 465, 468 (5th Cir. 1992). We review the district court's dismissal for an abuse of discretion. Id.

Evans's § 1983 claims against defendants are in part barred by the statute of limitations. Although there is no prescribed period for a § 1983 action, the federal courts have borrowed the forum state's general personal injury limitations. Henson-El v. Rogers, 923 F.2d 51, 52 (5th Cir.), cert. denied, 111 S. Ct. 2863 (1991). In Texas, the prescriptive period for such claims is two years. Tex. Civ. Prac. & Rem. Code Ann. § 16.003 (West 1986). Evans's complaint was received by the clerk of court on July 22, 1992, and therefore to the extent Evans alleged

violations between April 9 and July 21, 1990, his claims are time-barred.

Evans has failed to state a claim under § 1983 against the Dallas County Sheriff's Department. The Sheriff's Department does not have a separate legal existence and therefore cannot be sued. See Darby v. Pasadena Police Dep't, 939 F.2d 311, 313-14 (5th Cir. 1991).

Evans's remaining claims are against the unnamed heads of various Dallas County Jail departments and the unnamed wardens of the Dallas County Jail. Section 1983, however, does not impose vicarious or respondent-superior liability. Bigford v. Taylor, 834 F.2d 1213, 1220 (5th Cir.), cert. denied, 488 U.S. 851 (1988). Evans must show that the defendants were either personally involved in the acts causing the alleged constitutional deprivation or, in the alternative, that their gross negligence in failing to supervise caused the injury. Id. In his interrogatory answers and pleadings, Evans claimed that the defendants "failed to make accommodations for the Islamic faith for inmates." When asked in interrogatories to describe specific acts performed by the defendants, Evans was only able to provide conclusory allegations. Although Evans does list in his amended complaint specific allegations of privileges Christians possess that Muslims do not, he failed to demonstrate that specific acts by any one of the individual defendants caused the alleged constitutional deprivations. Evans's pleadings and answers to interrogatories fail to allege a colorable claim against any of these defendants

under either alternative set forth in Bigford.

Evans has failed to present a basis for liability under § 1983, and, thus, the district court did not abuse its discretion in dismissing the claims. We AFFIRM.