

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 93-1885  
Conference Calendar

---

CARL THOMAS GUICHARD, SR.,

Plaintiff-Appellant,

versus

DELLA BREWER WISNIESKI ET AL.,

Defendants-Appellees.

- - - - -  
Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:93-CV-1742-R  
- - - - -  
(May 17, 1994)

Before HIGGINBOTHAM, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

The argument by Carl Thomas Guichard, Sr., that no statute of limitations applies to a federal civil rights suit is frivolous. Ali v. Higgs, 892 F.2d 438, 439 (5th Cir. 1990); Burrell v. Newsome, 883 F.2d 416, 418 (5th Cir. 1989); Tex. Civ. Prac. & Rem. Code § 16.003(a) (West 1986). Additionally, tolling does not automatically occur for prisoners in Texas. Ali, 892 F.2d at 439. Guichard has made no showing that he previously brought a civil rights action challenging the validity of a

---

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

conviction before he brought a habeas petition, that the district court dismissed the previous action without prejudice, and that the statute of limitations was tolled during the pendency of habeas proceedings. See Rodriguez v. Holmes, 963 F.2d 799, 804-05 (5th Cir. 1992). The appeal is frivolous and is dismissed. See 5th Cir. R. 42.2.

Guichard has filed in this Court various motions and a letter seeking to supplement the record and seeking a writ of habeas corpus. Facts alleged for the first time on appeal are not considered. Self v. Blackburn, 751 F.2d 789, 793 (5th Cir. 1985). A habeas petition must be filed in the district court. Rule 3(a) of Rules Governing 28 U.S.C. § 2254 Cases.

APPEAL DISMISSED, ALL MOTIONS DENIED.