

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-2825
Conference Calendar

EDWARD LYNN BARNES,

Plaintiff-Appellant,

versus

JAMESON M. MAPEL,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CA H 93 2536
- - - - -
(May 17, 1994)

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

PER CURIAM:*

Edward Lynn Barnes appeals the dismissal of his § 1983 complaint pursuant to 28 U.S.C. § 1915(d). "[W]here it is clear from the face of a complaint filed in forma pauperis that the claims asserted are barred by the applicable statute of limitations, those claims are properly dismissed pursuant to § 1915(d)." Gartrell v. Gaylor, 981 F.2d 254, 256 (5th Cir. 1993). "Under federal law, a cause of action accrues when the plaintiff knows or has reason to know of the injury which is 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

basis of the action." Id. at 257. Because there is no federal statute of limitations for civil rights actions, the federal court gives effect to the forum state's tolling provisions. Id. In this case, the Texas general personal-injury limitations period of two years applies. Id. at 256.

Barnes's complaint indicates that he knew he was injured in 1988 and in 1990 but did not file suit until August 17, 1993, more than two years after the most recent injury. Barnes's allegation that the district attorney kept him in jail to force the limitations period to expire is to no avail. Prior to September 1, 1987, imprisonment was a legal disability under Texas law, tolling the accrual of imitations on causes of actions for the duration of the prison term. Since that date, however, imprisonment does not provide a basis for the tolling limitations period. See Burrell v. Newsome, 883 F.2d 416, 418 (5th Cir. 1989). Consequently, Barnes's complaint lacks an arguable legal basis, and the district court did not abuse its discretion when it dismissed it.

The judgment of the district court is AFFIRMED.