

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-3898
Conference Calendar

CLYDE URA CAIN, SR.,

Plaintiff-Appellant,

versus

RONALD RUIZ ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. CA-92-4096-N

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(November 16, 1994)

Before JONES, DUHÉ, and PARKER, Circuit Judges.

PER CURIAM:*

This Court reviews de novo the dismissal for failure to state a claim. See Jackson v. City of Beaumont Police Dep't, 958 F.2d 616, 618 (5th Cir. 1992). The Court accepts as true all the allegations of the complaint, considering them in the light most favorable to Cain. See Ashe v. Corley, 992 F.2d 540, 544 (5th Cir. 1993). Furthermore, "[p]ro se prisoner complaints must be read in a liberal fashion and should not be dismissed unless it appears beyond all doubt that the prisoner could prove no set of facts under which he would be entitled to relief." Jackson v.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Cain, 864 F.2d 1235, 1241 (5th Cir. 1989) (internal quotations and citations omitted).

Cain challenges the district court's determination that most of his claims were time-barred. He argues that the factual allegations in his complaint "affirmatively demonstrate an on-going conspiracy . . . particularly from 1984 to the present."

Because there is no federal statute of limitations for 42 U.S.C. § 1983 actions, federal courts borrow the forum state's general personal injury statute of limitations to determine the length of the prescriptive period. Owens v. Okure, 488 U.S. 235, 249-50, 109 S. Ct. 573, 582, 102 L. Ed. 2d 594 (1989). Thus, Cain's claims are governed by Louisiana's one-year prescriptive period. See Elzy v. Roberson, 868 F.2d 793, 794 (5th Cir. 1989); La. Civ. Code Ann. art. 3492 (West 1994).**

Although state law governs the limitations period, federal law governs when the cause of action accrues. Gartrell v. Gaylor, 981 F.2d 254, 257 (5th Cir. 1993). Under that standard, a cause of action accrues when the plaintiff knows or has reason to know of the injury which forms the basis of the action. Id.

Cain's argument that his claims are not barred because he was the victim of a continuing conspiracy is without merit. In

** Although the magistrate judge incorrectly believed that some of Cain's claims were subject to Texas's two-year limitations period, this error is harmless in light of the disposition of the appeal. See Bickford v. Int'l Speedway Corp., 654 F.2d 1028, 1031 (5th Cir. 1981) (reversal inappropriate if ruling of district court can be affirmed on any grounds, regardless whether these grounds were used by the district court).

an alleged civil rights conspiracy case such as this one, the actionable injury "results from the overt acts of the defendants, not from the mere continuation of a conspiracy." Helton v. Clements, 832 F.2d 332, 335 (5th Cir. 1987) (footnote omitted). Thus, Cain's cause of action accrued as soon as he knew or should have known of the overt acts underlying the alleged conspiracy. See id. It is apparent from the face of Cain's complaint that he was aware of the alleged wrongs done to him during the times alleged in his complaint. Thus, Cain's § 1983 action is barred insofar as it is premised on acts which accrued more than one year before Cain filed his complaint, November 11, 1992.

The last events specifically described in Cain's complaint, his trial for the murder of Robert Anderson and the publication of "false" information identifying Cain as a member of the "Dixie Mafia," both occurred in June 1991. Thus, these claims are time-barred.

Finally, even assuming arguendo that Cain has alleged a claim concerning the placing of derogatory material in files maintained by Texas prison and parole authorities, that may have arisen after November 11, 1991, he has failed to present a valid constitutional claim. An action will lie under § 1983 only if the claimant establishes that he suffered a stigma due to a state actor's communication of wrongdoing by the claimant and that the stigma caused an infringement of some other interest. San Jacinto Sav. & Loan v. Kacal, 928 F.2d 697, 701-02 (5th Cir. 1991). Thus, "[a] damaged reputation, apart from injury to a more tangible interest . . . does not implicate any `liberty' or

`property' rights sufficient to invoke due process." Geter v. Fortenberry, 849 F.2d 1550, 1556 (5th Cir. 1988). Cain has not connected the alleged defamation to another "more tangible" injury so as to state a § 1983 violation. See Creel v. Keene, 928 F.2d 707, 712 (5th Cir.) (Texas law provides no constitutionally protected liberty interest in release on parole), cert. denied, 501 U.S. 1210 (1991).

AFFIRMED.