

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-7012
Summary Calendar

BILL HUNT,

Plaintiff-Appellant,

versus

LOUIS HARPER, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Mississippi
(1:92-CV212-B-D)

(January 4, 1994)

Before DAVIS, JONES, and DUHÉ, Circuit Judges.

EDITH H. JONES, Circuit Judge.*

The district court accepted the magistrate judge's recommendation that this case should be dismissed as barred by the Mississippi statute of limitations and because Hunt had not exhausted his state habeas corpus remedies. We find certain flaws in this analysis and accordingly vacate the dismissal with

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

instructions to the district court to stay this case pending exhaustion of habeas.

Appellant Hunt is currently confined in the Mississippi penitentiary after being convicted of the murder of his former employer, attorney Billy R. Jordan. Hunt alleges that the sheriff of Lowndes County, Mississippi and two of his investigators framed him for that murder. In his pro se complaint, he sets forth causes of action denominated as "abuse of legal process" and "unlawful incarceration."

The defendants filed a motion to dismiss, alleging that Hunt's action is barred either by Mississippi's one-year statute of limitations or its six-year limitations statute, depending on which applied to § 1983 actions at the time of the events in question. The magistrate judge found it unnecessary to resolve this issue, because he concluded that both of Hunt's alleged causes of action were barred even under the six-year statute.

There may ultimately be a legitimate legal question as to which statute of limitations applies in this case. Compare Gates v. Spinks, 771 F.2d 916 (5th Cir. 1985) holding one-year statute applicable to § 1983 cases), with Thomas v. City of New Albany, 901 F.2d 476, 477 (5th Cir. 1990) (because of Owens v. Okure, 109 S. Ct. 573 (1989), the six-year statute is applicable retroactively to § 1983 cases). We do not, however, resolve that question for two reasons. First, it seems premature to do so, because Hunt's claims essentially challenge the validity of his confinement and, although they allegedly do not seek his release, they may not be heard in

federal court until he exhausts state and federal habeas corpus remedies. Serio v. Members of Louisiana State Board of Pardons, 821 F.2d 1112, 1117 (5th Cir. 1987).

Second, important to the ultimate analysis of Hunt's case is the fact that his § 1983 claims should not be analyzed in terms of Mississippi's law of abuse of process or false imprisonment. The § 1983 claims depend on the violation of federal constitutional rights, such as the right not to be convicted by the use of false testimony. The magistrate judge's finding that Hunt's causes of action for "false imprisonment" and "abuse of process" were barred depended heavily upon his mistaken analysis of the elements of those claims under Mississippi law. Thus, he concluded that those claims accrued before the date of conviction, because conviction is not an element of those state torts. When this case proceeds anew, as it probably will, the magistrate judge should bear in mind that Hunt's claims must be analyzed according to applicable federal law. Moreover, because he is a pro se petitioner, Hunt's allegations must be construed broadly to include any and all possible causes of action that they may suggest. His claims may not, in other words, be confined simply to the narrowest dimension that is possible, as seems to have been previously done.

For these reasons, the judgment of the district court is VACATED and the case is REMANDED with instructions to stay pending exhaustion of Hunt's habeas remedies. Sheppard v. State Louisiana Board of Parole, 873 F.2d 761, 762 (5th Cir. 1989).