

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-8030
Conference Calendar

CARLOS M. LAVERNIA,

Plaintiff-Appellant,

versus

GALE JOSLIN, Officer, Austin
Police Department, ET AL,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. A-91-CV-234
- - - - -

August 20, 1993

Before JOLLY, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:*

Because no specified federal statute of limitations exists for 42 U.S.C § 1983 suits, federal courts borrow the forum state's general or residual personal injury limitations period. Rodriguez v. Holmes, 963 F.2d 799, 803 (5th Cir. 1992). In Texas, the applicable period is two years. Tex. Civ. Prac. & Rem. Code § 16.003(a). Further, federal courts considering the timeliness of state inmates' § 1983 actions apply the states' tolling provisions to statutory limitations periods. Rodriguez,

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

963 F.2d at 803. Effective September 1, 1987, Tex. Civ. Prac. & Rem. Code § 16.001 was amended to eliminate imprisonment as a legal disability which tolled the running of the two-year statute of limitation. Therefore, for prisoners, limitations then tolled commenced running on September 1, 1987. Id.

Although state law controls the limitations period for § 1983 claims, federal law determines when a cause of action accrues. Brummett v. Camble, 946 F.2d 1178, 1184 (5th Cir.), cert. denied, ___ U.S. ___, 112 S.Ct. 2323 (1992). A state statute of limitations imposed in a § 1983 action does not run until the plaintiff is in possession of the "critical facts" that he has been hurt and the defendants who are involved. Freeze v. Griffith, 849 F.2d 172, 175 (5th Cir. 1988).

Although Lavernia argues that his time limit should not have started running until he received notice from the Governor's office that there were no records of extradition papers, Lavernia knew or should have known of his injury, and the people responsible for it, in 1984, when the defendants took him from Georgia to Texas without presenting him with any documents relating to his extradition and abused him during the transfer. The record indicates that in 1984 Lavernia was aware that the defendants had abused him during his transfer and lied to him about being transferred to Austin, Texas. Lavernia had notice of his injury and the people who had injured him. Consequently, his cause of action has been effectively time-barred. The district court's order dismissing Lavernia's complaint is AFFIRMED.