

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-8481
Conference Calendar

ENRIQUE SANCHEZ,

Plaintiff-Appellant,

versus

R. MARTINEZ, Police Officer,
Badge No. 713, City of El Paso
Police Department, El Paso
County, TX 79901,

Defendant-Appellee.

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Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-93-CV-264
- - - - -
(October 28, 1993)

Before POLITZ, Chief Judge, and SMITH and WIENER, Circuit Judges.

PER CURIAM:*

Enrique Sanchez filed a civil rights action against El Paso Police Officer R. Martinez, alleging that Martinez violated his Fourth Amendment rights by arresting him for public intoxication without a warrant and without probable cause.

"[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

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

dismissed pursuant to § 1915(d)." Gartrell v. Gaylor, 981 F.2d 254, 256 (5th Cir. 1993). Because there is no federal statute of limitations for civil rights actions, the Texas general personal injury limitations period of two years applies. Id. "Under federal law, a cause of action accrues when the plaintiff knows or has reason to know of the injury which is the basis of the action." Id. at 257.

Sanchez filed his complaint on June 17, 1993, alleging violations that occurred, and that he had reason to know of, in January 1988. Sanchez' claims accrued more than two years prior to filing his complaint; therefore, absent a tolling provision, the action is time-barred. Sanchez cannot assert that the limitations period was suspended by the disability of imprisonment because Texas removed imprisonment from the list of legal disabilities effective September 1, 1987. See Henson-El v. Rogers, 923 F.2d 51, 52 (5th Cir.), cert. denied, 111 S.Ct. 2863 (1991).

The judgment of the district court is modified to dismiss the claim with prejudice, and as modified is AFFIRMED. See Lavespere v. Niagara Mach. & Tool Works, Inc., 920 F.2d 259, 262 (5th Cir. 1990), cert. denied, 62 U.S.L.W. 3248 (U.S. Oct. 4, 1993) (the Court may affirm the district court for reasons not advanced by that court).