

Gerard Hennessey appeals the dismissal of his § 1983 and RICO claims against J. David Nelson. We affirm.

I.

Hennessey's claims against J. David Nelson, a Lubbock County, Texas attorney, center on Nelson's efforts to collect various debts from Hennessey's daughter on behalf of a local retailer. Hennessey suspected that Nelson's collection efforts violated the Fair Debt Collection Practices Act ("FDCPA"), and that they were part of a larger racketeering enterprise operated by Nelson and Lubbock County officials. In October 1989, Hennessey sought court records from Bill Ross, a Lubbock County justice of the peace, documenting Nelson's debt collection practices. Although Nelson objected to Hennessey's request, Ross released the documents.

In April 1991, Hennessey sought additional court records from L.J. Blalack, another Lubbock County justice of the peace. After a heated exchange between Hennessey and Blalack, Blalack charged Hennessey with contempt and requested a deputy sheriff to place him in custody. Before Hennessey was escorted out of the courtroom, however, Blalack withdrew the contempt citation and instructed the bailiff to release him.

Hennessey responded by filing a § 1983 complaint against Blalack, Blalack's court personnel, Nelson, and numerous other Lubbock County officials alleging that they violated his constitutional rights. Hennessey further alleged that these

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

defendants operated a corrupt enterprise designed to extort excessive fines and engage in illegal debt collection practices in violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §§ 1961-1968 ("RICO").

The district court entered Rule 54(b) orders dismissing most of the defendants and dismissing some of Hennessey's claims against the remaining defendants, including Hennessey's RICO claim against Nelson and the county officials. The district court then granted summary judgment against Hennessey on the remaining claims. In the present appeal, Hennessey challenges the district court's dismissal of his § 1983, RICO, and pendent state law claims against Nelson. He also challenges the district court's denial of his motion to certify a class action on behalf of county residents harmed by the defendants' alleged RICO violations.

II.

A.

Hennessey first contends that the district court erred by dismissing his § 1983 claims against Nelson. Hennessey alleges two grounds for his § 1983 claims against Nelson. First, Hennessey alleges that Nelson interfered with his constitutional right of access to public records by objecting to his request for court documents from Judge Ross. Second, Hennessey alleges that Nelson made disparaging remarks about him to other attorneys in an effort to prevent him from obtaining legal representation for his daughter. The district court concluded that Hennessey failed to assert a violation of any constitutionally protected right and

dismissed his § 1983 claims. The court also concluded that Hennessey's § 1983 claims are barred under Texas' two-year statute of limitations for personal injury claims.

Our review of the record persuades us that Hennessey's § 1983 claims against Nelson are barred by Texas' two-year statute of limitations. In determining whether a § 1983 claim is barred by the statute of limitations, federal courts refer to the forum state's general personal injury limitations period. **Ali v. Higgs**, 892 F.2d 438, 439 (5th Cir. 1990). Texas' applicable limitations period for personal injury claims is two years. Tex.Civ.Prac. & Rem.Code Ann. § 16.003(a)(Vernon 1986). Hennessey filed his § 1983 claims against Nelson in April 1993. However, the incidents alleged in Hennessey's § 1983 complaint occurred more than two years before he filed his complaint. Nelson's attempt to prevent Hennessey from obtaining records from Judge Ross occurred in 1989. The disparaging remarks cited in Hennessey's complaint similarly occurred in 1989.² Because the record does not reveal any basis for tolling the statute of limitations, Hennessey's § 1983 claims against Nelson are barred.

B.

² The only other incident involving Hennessey's attempt to obtain public records is the 1991 altercation involving Judge Blalack. However, Hennessey fails to allege any facts connecting Nelson with the altercation. Hennessey filed a separate § 1983 action against Judge Blalack alleging that the judge barred his access to public records.

Hennessey next contends that the district court erred by dismissing his RICO claim against Nelson and denying his motion to certify a class action.³ Both arguments are without merit. We resolved these issues in a previous unpublished decision, **Hennessey v. Blalack**, Nos. 93-1808, **etc.** (5th Cir. Aug. 30, 1994) ("**Hennessey I**"). In **Hennessey I**, we concluded that Hennessey lacked standing to sue under RICO and affirmed the district court's dismissal of his claims. We also affirmed the district court's denial of Hennessey's motion to certify a class action. Under the "law of the case" doctrine, Hennessey cannot raise arguments that we have already resolved in a previous decision. **Chevron U.S.A., Inc. v. Traillour Oil Co.**, 987 F.2d 1138, 1150 (5th Cir. 1993).

C.

Finally, Hennessey contends that the district court erred by not retaining supplemental jurisdiction over his state law claims against Nelson. This argument is similarly without merit. Under 18 U.S.C. § 1367(3), a district court may dismiss pendent state law claims if the court has dismissed "all claims over which it has original jurisdiction." District courts enjoy wide discretion in dismissing pendent state law claims under § 1367(3). **Noble v. White**, 996 F.2d 797, 799 (5th Cir. 1993). Hennessey fails to show that the district court's dismissal of his state law claims wasted judicial resources or otherwise prejudiced him. In fact, the

³ Hennessey alleges that Nelson participated in the county officials' RICO enterprise by pursuing unlawful debt collection practices. Hennessey cites alleged violations of the FDCPA and the Hobbs Act as examples of Nelson's racketeering activities.

court's dismissal occurred at an early stage in the proceedings before either party had engaged in extensive discovery. The district court did not, therefore, abuse its discretion by dismissing Hennessey's pendent state law claims.

III.

For the reasons stated above, we AFFIRM the district court's dismissal of Hennessey's § 1983 and RICO claims against Nelson. Nelson also filed a motion to strike references in Hennessey's brief to facts not in the record. Specifically, Nelson objects to Hennessey's references to campaign contributions that Nelson made to L.J. Blalack. References in a party's brief to matters outside the record may be stricken. **Holmberg v. Baxter Healthcare Corp.**, 901 F.2d 1383, 1392 n.4 (7th Cir. 1990). Accordingly, we GRANT Nelson's motion to strike Hennessey's references to Nelson's campaign contributions.

AFFIRMED; Motion Granted.