

IN THE UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 94-20342
(Summary Calendar)

CHARLES YOUNG,

Plaintiff-Appellant,

versus

WAYNE SCOTT, ET AL.,

Defendants-Appellees.

Appeal from United States District Court
from the Southern District of Texas
(CA-H-94-513)

(November 22, 1994)

Before DUHÉ, WIENER and STEWART, Circuit Judges.

PER CURIAM:*

On February 17, 1994, Charles Young filed a 42 U.S.C. § 1983 complaint against several officials employed by the Hughes Unit of the Texas Department of Criminal Justice where he is incarcerated. The complaint alleged constitutional violations occurring from December 27, 1991 through January 17, 1992. The district court correctly applied Texas' two-year statute of

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 Pursuant to that Rule, the Court has determined that this opinion should not be published."

limitations,¹ and dismissed the complaint as frivolous, pursuant to 28 U.S.C. § 1915(d), because it was time-barred. Young appeals.

We review a district court's § 1915(d) dismissal for abuse of discretion. Denton v. Hernandez, ___ U.S. ___, 112 S.Ct. 1728, 1734, 118 L.Ed.2d 340 (1992). Accrual of the cause of action begins when the plaintiff knows or has reason to know of the injury which is the basis of the action. Burrell v. Newsome, 883 F.2d 416, 418 (5th Cir. 1989). The district court found that copies of grievances which he had filed with prison authorities on December 30, 1991 indicated that Young was fully aware of the critical facts of his claims at that time. Young did not file his complaint until February 17, 1994, more than two years after he knew of the basis for the action. Accordingly, we find that the district court did not abuse its discretion when it dismissed Young's complaint under § 1915(d). This judgment is affirmed.

After the district court dismissed his complaint, Young filed a motion for leave to file an amended complaint and a motion for reconsideration. The district court denied both motions. On appeal, Young challenges the denial of his motion to amend his complaint. Young's notice of appeal specifies the judgment which dismissed his complaint but does not refer to the motion for leave to amend the complaint. Thus, Young's challenge to the district court's motion for leave to file the amended complaint is not properly before this court. See Fed. R. App. P. Rule 3(c); C.A.

¹ See Ali v. Higgs, 892 F.2d 438, 439 (5th Cir. 1990) (Federal courts borrow the forum state's general personal injury limitations period). In Texas, this period is two years. Tex. Civ. Prac. & Rem. Code § 16.003(a).

May Marine Supply Co. v. Brunswick Corp., 649 F.2d 1049, 1056 (5th Cir. 1981), cert. denied, 454 U.S. 1125, 102 S.Ct. 974, 71 L.Ed.2d 112 (1981).

AFFIRMED.