

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-30294
Conference Calendar

WILLIE WILLIAMS, JR.,

Plaintiff-Appellant,

versus

HARRY F. CONNICK, District Attorney
of Orleans Parish, and
UNIDENTIFIED PARTIES,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. CA-94-986-E
- - - - -
(July 22, 1994)

Before POLITZ, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:*

Willie Williams, Jr., requests leave of this Court to proceed on appeal in forma pauperis (IFP). Because the district court did not revoke his IFP status, Williams' request is DENIED as unnecessary. See Fed. R. App. P. 24(a).

Williams appeals the district court's dismissal, for frivolousness, of his 42 U.S.C. § 1983 complaint. An IFP complaint may be dismissed as frivolous if it lacks an arguable

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

basis in law or fact. Denton v. Hernandez, ___ U.S. ___, 112 S.Ct. 1728, 1733, 118 L.Ed.2d 340 (1992). This Court reviews for abuse of discretion. Id., 112 S.Ct. at 1734.

The district court's dismissal was based on prescription. See Elzy v. Roberson, 868 F.2d 793, 794 (5th Cir. 1989). A federal court will "give effect to any applicable tolling provisions" from state law to interrupt the prescriptive or limitations period. See Gartrell v. Gaylor, 981 F.2d 254, 257 (5th Cir. 1993). Under Louisiana law, the doctrine of contra non valentem tolls the prescriptive period. See Wimberly v. Gatch, 635 So.2d 206, 211 (La. 1994).

Williams argues on appeal that the doctrine applies to his case because the defendants concealed their acts of fabricating evidence, and Williams did not discover these concealed facts until June 1993. This allegation was not raised in the district court. Because this issue is raised for the first time on appeal, we do not consider it. See Self v. Blackburn, 751 F.2d 789, 793 (5th Cir. 1985).

Because the prescriptive period ran on Williams' cause of action and because he failed to present to the district court circumstances which would invoke the tolling of the prescriptive period, the district court did not abuse its discretion in dismissing his complaint as frivolous. See Graves v. Hampton, 1 F.3d 315, 319 (5th Cir. 1993).

AFFIRMED.