UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 94-30549
Summary Calendar

LUIS GOMEZ,

Plaintiff-Appellant,

VERSUS

POLICE JURORS OF JEFERSON PARISH, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
For the Eastern District of Louisiana
(94 CV 2562)

(March 28, 1995)

Before WISDOM, JOLLY and JONES, Circuit Judges.

PER CURIAM:*

The district court dismissed this §1983 action under 28 U.S.C. §1915(d) because it determined that all but one of the appellant's claims had prescribed. The court determined that this final claim of false imprisonment must be dismissed because it had

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* Local Rule 47.5.1 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Pursuant to that Rule, the Court has determined that this opinion should not be published.

no basis in law. Upon review, we have determined that all of the appellant's claims, including the allegation that he was falsely imprisoned, have prescribed. We, therefore, AFFIRM the decision of the district court.

I

Luis Gomez, the plaintiff/appellant, an inmate in the Washington correctional institution, Angie, Louisiana, filed this §1983 action, proceeding *in forma pauperis*, in August of 1994, against Sheriff Harry Lee of Jefferson Parish, Louisiana, based on his arrest and incarceration in 1990. In 1990, the police had searched Gomez's home where they seized over 400 grams of cocaine. The plaintiff was arrested, subsequently pleaded guilty, and was imprisoned. In 1994, Gomez alleges that both the search and the arrest were illegal, that he has been falsely imprisoned, and that he suffered from various other constitutional violations.

A magistrate judge characterized the suit as frivolous and recommended that the plaintiff's complaint be dismissed, under 28 U.S.C. §1915(d), because the applicable prescriptive period had run. The district court adopted the magistrate's recommendation as to all but the false imprisonment claim. The district court also dismissed the plaintiff's false imprisonment claim, however, because, since the plaintiff pleaded guilty and is now imprisoned, the claim has no basis in law. The plaintiff currently challenges the district court's dismissal of his §1983 action.

II

Under 28 U.S.C. §1915(d), a district court may dismiss

the complaint of a plaintiff proceeding *in forma pauperis* if it concludes that the allegations have no arguable basis in law and fact.[1] One specific application of this principle is that "district courts may dismiss claims *sua sponte* under § 1915(d) where `it is clear from the face of the complaint filed *in forma pauperis* that the claims asserted are barred by the applicable statue of limitations'".[2] We review a §1915(d) dismissal for abuse of discretion.[3]

Since §1983 has no independent statute of limitations, federal courts borrow the forum state's general limitation period for personal injury.[4] In Louisiana, Civil Code article 3492 imposes a prescriptive period of one year for tort actions.[5] Thus, applying the one-year period to this case, the district court was correct when it dismissed most of the plaintiff's claims because they had been filed over three years after the plaintiff's injury was sustained and the causes of action accrued.

The district court, however, did not dismiss the plaintiff's false imprisonment claim on prescriptive grounds because, under Louisiana law, it would not begin to accrue until

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[1] *Booker v. Koonce*, 2 F.3d 114, 115 (5th Cir. 1993).

[2] *Moore v. McDonald*, 30 F.3d 616, 620 (5th Cir. 1994) (quoting *Gatrell v. Gaylor*, 981 F.2d 254 (5th Cir. 1993)).

[3] *Booker*, 2 F.3d at 115.

[4] *Jackson v. Johnson*, 950 F.2d 263, 265 (5th Cir. 1992); *Elzy v. Roberson*, 868 F.2d 793, 794 (5th Cir. 1989).

[5] *Elzy*, 868 F.2d at 794; see also, *Burge v. Parish of St. Tammany*, 996 F.2d 786, 787 (5th Cir. 1993).

the plaintiff was released from prison.[6] The application of Louisiana law on this issue was erroneous because, although Louisiana law governs the limitations period, "federal law governs when a cause of action arises".[7] Under federal law, a cause of action arises "when the plaintiff knows or has reason to know of the injury which is the basis of the action".[8] That is, the prescriptive period begins to run when "the plaintiff is in possession of the critical facts that he has been hurt and who has inflicted the injury".[9]

Here, the plaintiff knew of the alleged false imprisonment, as well as all the other alleged injuries, in 1990 when he was arrested, charged, and incarcerated after pleading guilty.[10] Under the Louisiana Civil Code article 3492, he had one year within which to file his §1983 action. The plaintiff failed to do so and his claims under §1983 have, therefore, prescribed.

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[6] *Restrepo v. Fortunato*, 556 So. 2d 1362, 1363 (La. App. 5 Cir. 1990) (stating that for a false imprisonment claim " . . . prescription of one year begins to run when the person is released from prison *and* has been found innocent of the crime for which he has been incarcerated").

[7] *Jackson*, 950 F.2d at 265 (citing *Burrell v. Newsome*, 883 F.2d 416 (5th Cir. 1989)).

[8] *Moore*, 30 F.3d at 620-21; *Jackson*, 950 F.2d at 265.

[9] *Moore*, 30 F.3d at 621.

[10] *Moore*, 30 F.3d at 621; see also, *Cantarella v. Kuzemchak*, 1994 WL 529530, *1 (9th Cir.) (concluding that the applicable forum prescriptive period on a false imprisonment claim began to run on the date the plaintiff was arrested and put in prison); *Cline v. Brusett*, 661 F.2d 108 (9th Cir. 1981) (deciding that a false imprisonment claim accrued on the date the plaintiff was imprisoned).

III

The district court was correct when it dismissed most of the plaintiff's claims as prescribed. The plaintiff's false imprisonment claim has also prescribed and should have been dismissed on that ground. We note that "[w]hen the judgment of the district court is correct, it may be affirmed on appeal for reasons other than those asserted or relied on below".[11] Since we agree that dismissal of the plaintiff's entire complaint was appropriate, we AFFIRM.

[11] *Booker*, 2 F.3d at 116. (citing *Wooton v. Pumpkin Air, Inc.*, 869 F.2d 848 (5th Cir. 1989))