IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

NO. 94-50565 Summary Calendar

PHILLIP ALLEN, DR.,

Plaintiff-Appellant,

versus

LUMBERTON INDEPENDENT SCHOOL DISTRICT, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court for the Western District of Texas
(A-92-CV-454)

(May 22, 1995)

Before JONES, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM*:

Plaintiff-Appellant Dr. Phillip Allen ("Allen") appeals the district court's amended judgment granting summary judgment in favor of Defendants-Appellees Lumberton Independent School District, et al. ("Lumberton") and dismissing the case with prejudice. We AFFIRM the judgment of the district court for the following reasons.

1. Allen's termination in April 1986 triggered the running 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Pursuant to that Rule, the Court has determined that this opinion should not be published.

the two year statute of limitations period for his causes of action based upon his termination of employment. See Dumas v. Town of Mount Vernon, Ala., 612 F.2d 974, 977 (5th Cir. 1980). The mere perpetuation of the effects of the termination decision while on administrative appeal does not constitute a continuing violation. See Frazier v. Garrison I.S.D., 980 F.2d 1514, 1521-22 (5th Cir. 1993); Dumas, 612 F.2d at 977-78. Thus, the district court did not err in granting Lumberton's FED. R. CIV. P. 12(b)(6) dismissal as to Allen's claims arising from the his termination in 1986.

- 2. Allen's state constitutional claims were not tolled while he pursued state administrative remedies, because state constitutional claims are not affected by the doctrine of exhaustion of administrative remedies such that they must be originally considered by the state administrative agency. See Texas Educ. Agency v. Cypress-Fairbanks I.S.D., 830 S.W.2d 88, 91 n.3 (Tex. 1992). Thus, the district court did not err in dismissing Allen's state constitutional claims arising out of his termination in 1986.
- 3. Allen presented no competent summary judgment evidence to support his post-termination claims and to avoid summary judgment on behalf of Lumberton. Thus, the district court did not err in granting Lumberton's motion for summary judgment.