IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-60203
Conference Calendar

ENGLANTINA CASARES,

Plaintiff-Appellant,

versus

CITY OF DONNA, TEXAS, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court
for the Southern District of Texas
USDC No. M-92-CA-205

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(September 22, 1994)

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Englantina Casares appeals the summary judgment in favor of the defendants dismissing her civil rights action as time-barred. She argues that, under federal law, the cause of action does not accrue until the plaintiff is, or should be, aware of the injury and its connection to the defendant. Casares asserts that, although her arrest occurred on January 29, 1990, she did not know of the acute dislocation of her coccyx and that it was caused by the police officer until November 1, 1991.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

There is no federal statute of limitations for civil rights action under § 1983; therefore, "the federal court borrows the forum state's general personal injury limitations period." Gartrell v. Gaylor, 981 F.2d 254, 256 (5th Cir. 1993). "In Texas, the applicable limitations period is two years." Id. The Court looks to federal law to determine when the cause of action accrues. Id. at 257. "Under federal law, a cause of action accrues when the plaintiff knows or has reason to know of the injury which is the basis of the action." Id.

The Fourth Amendment governs claims of excessive force during arrest. Spann v. Rainey, 987 F.2d 1110, 1115 (5th Cir. 1993). "[I]n order to state a claim for excessive force in violation of the constitution, a plaintiff must allege `(1) a[n] . . . injury, which (2) resulted directly and only from the use of force that was clearly excessive to the need; and the excessiveness of which was (3) objectively unreasonable.'" Id. (quoting Johnson v. Morel, 876 F.2d 477, 480 (5th Cir. 1989) (en banc)) (footnote omitted). "A plaintiff is no longer required to prove significant injury to assert a section 1983 Fourth Amendment excessive force claim." Harper v. Harris County, Tex., 21 F.3d 597, 600 (5th Cir. 1994).

The facts concerning Casares' medical history since her arrest are undisputed. If the evidence is viewed in the light most favorable to Casares, it is apparent that Casares knew on the day she was arrested that she had suffered some injury, and she knew on August 11, 1990, that her injuries were significant. In her affidavit opposing summary judgment, Casares avers that

she "was severely bruised in the arrest," "in great pain," and that the treating physician "became upset over my injuries, and called the McAllen Police Department concerning them." She also admitted that she knew in August 1990 that she had an injury to her coccyx. Therefore, as a matter of law, the cause of action accrued at the latest on August 11, 1990. Because Casares did not file her complaint until October 23, 1992, the action is barred by the Texas two-year statute of limitations.

AFFIRMED.