

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-60320  
Conference Calendar

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VINCENT HUDSON,

Plaintiff-Appellant,

versus

RULEVILLE POLICE DEPARTMENT,  
R.L. BRAND, and OTIS ABRON,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Mississippi  
USDC No. 4:93-CV-110-B-D  
- - - - -  
(September 23, 1994)

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

We review de novo the district court's dismissal, pursuant to Fed. R. Civ. P. 12(b)(6), of Vincent Hudson's 42 U.S.C. § 1983 suit. Giddings v. Chandler, 979 F.2d 1104, 1106 (5th Cir. 1992). "A trial court's decision to grant a Rule 12(b)(6) motion may be upheld `only if it appears that no relief could be granted under any set of facts that could be proven consistent with the allegations.'" Id. (citation omitted). For review purposes, Hudson's allegations are accepted as true. Id.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Some claims alleged by Hudson, such as loss of property, improper housing at the jail, and exposure to the cold night air, if proved, would not affect the validity of his conviction. See Heck v. Humphrey, \_\_\_ U.S. \_\_\_, 114 S. Ct. 2364, 2372, 129 L. Ed. 2d 383 (1994). These claims are barred by the applicable limitations statute. See James ex rel. James v. Sadler, 909 F.2d 834, 836 (5th Cir. 1990).

To the extent that Hudson's other allegations, if proved, would affect the validity of his conviction, Hudson has not shown that his conviction has been invalidated; thus, he has no cause of action for damages under 42 U.S.C. § 1983. See Heck, 114 S. Ct. at 2372-73. To the extent that Hudson's complaint is an attack upon his state conviction and he seeks immediate or earlier release, his claim is not cognizable under § 1983. See id., 114 S. Ct. at 2369-70 (referring to Preiser v. Rodriguez, 411 U.S. 475, 488-90, 93 S. Ct. 1827, 36 L. Ed. 2d 439 (1973)).

The district court did not err in dismissing Hudson's § 1983 suit pursuant to Rule 12(b)(6).

AFFIRMED.