

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-11168

CAROL ANN MITCHELL,

Plaintiff-Appellant,

versus

BERT WAYNE BOLAN, PH.D., ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
(4:95-CV-528-A)

July 2, 1997

Before WISDOM, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Carol Ann Mitchell (Mitchell) filed suit against Psychiatric Institute-Fort Worth (“PIFW”); Psychiatric Institutes of America; National Medical Enterprise (collectively “NME defendants”); Robert Gross and Russell Brown (her PIFW treating physicians); Bert Bolan (her outpatient therapist); and Peter Alexis (the former PIFW administrator). Mitchell asserted claims under RICO and state-law theories of false imprisonment, invasion of privacy (intrusion upon seclusion), medical negligence, fraud, intentional infliction of emotional distress, and civil conspiracy. The district court granted the NME defendants’ motion for summary judgment on both the state-law and RICO claims,

*Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

concluding that Mitchell's claims were barred by the applicable statute of limitations. Mitchell appeals the grant of summary judgment. After carefully reviewing the briefs, record, and oral arguments, we affirm for essentially the reasons stated by the district court in its memorandum order. *See Mitchell v. Bolan, Ph.D., et al.*, No. 4:95-CV-528-A (N.D. Tex. July 2, 1996).

The district court also granted summary judgment in favor of Gross and Bolan because both had asserted the affirmative defense of limitations in their answer, though no formal summary judgment motion was filed. The district court correctly concluded that Mitchell's claims against Gross and Bolan were barred as a matter of law. We therefore affirm the *sua sponte* entry of summary judgment on their behalf. *See McCarty v. United States*, 929 F.2d 1085, 1088 (5th Cir. 1991) (affirming district court's *sua sponte* grant of summary judgment for nonmoving party after one party moved for summary judgment).

AFFIRMED.