

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-30621
Summary Calendar

NATHANIEL JOSEPH,

Plaintiff-Appellant,

versus

CITY OF NEW ORLEANS;
CHARLES ALONZO,

Defendants-Appellees.

Appeal from the United States District Court for the
Eastern District of Louisiana
USDC No. 95-CV-248-R

July 30, 1997

Before KING, JOLLY, and DENNIS, Circuit Judges.

PER CURIAM:*

Nathaniel Joseph, Jr. filed a pro se complaint in federal court against various defendants asserting that his federal constitutional rights were violated when he was arrested and tried for the armed robbery wrongly. See Joseph v. Cannon, 609 So.2d 838, 839-40 (La. App. 1992)(state law claims). The district court granted summary judgment in favor of the defendants because Joseph's federal claims had prescribed.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

As no federal statute of limitations applies to § 1983 actions, federal courts borrow the forum state's general personal injury limitations period, which is one year in Louisiana. Davis v. Louisiana State Univ., 876 F.2d 412, 413 (5th Cir. 1989); La. Civ. Code Ann. art. 3492 (West 1994). In this case there is no dispute that Joseph knew that he had suffered an injury at the time of his acquittal on October 17, 1986. There is also no dispute that he did not file a lawsuit encompassing his federal constitutional claims until January 20, 1995. Accordingly, the filing of the suit in state court alleging only state law claims on January 30, 1987, did not interrupt the prescriptive period with respect to the federal claims. Ford v. Stone, 599 F.Supp. 693, 694-96 (M.D. La. 1984), aff'd 774 F.2d 1158 (5th Cir. 1985)(unpublished). The district court did not err in granting summary judgment and dismissing Joseph's federal claims as prescribed.

A F F I R M E D.