

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-40951
Conference Calendar

HARRY LEE PHILLIPS,

Plaintiff-Appellant,

versus

JEFFERSON COUNTY PROBATION DEPARTMENT;
ADDITION TREATMENT AND RECOVERY CLINIC
OF BEAUMONT, TEXAS; W. GEORGE, Doctor, Beaumont
City Health Department, in his individual and
official capacity; TEXAS DEPARTMENT OF HEALTH,

Defendants-Appellees.

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Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:96-CV-611
- - - - -

April 9, 1998

Before JOLLY, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:*

Henry Lee Phillips appeals from the district court's Fed. R. Civ. P. 12(b)(6) dismissal of his complaint brought pursuant to 42 U.S.C. § 1983. He argues that the defendants' deliberate indifference caused him to lose sight in his right eye, but he fails to address the district court's dismissal of his cause of action as barred by the applicable statute of limitations.

Issues not raised or briefed are considered abandoned.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Evans v. City of Marlin, Tex., 986 F.2d 104, 106 n.1 (5th Cir. 1993). Nevertheless, as there is only one issue on appeal and the appellees have briefed the question, we will address the issue. See *Grant v. Cuellar*, 59 F.3d 523, 525 (5th Cir. 1995).

We have reviewed the record and the briefs of the parties, and find that the district court did not plainly err in finding that the complaint was barred by the Texas two-year statute of limitations. *Phillips v. Jefferson County Probation Department, et al.*, No. 1:96-CV-611 (E.D. Tex. Jul. 22, 1997); *Douglass v. United Services Auto. Ass'n.*, 79 F.3d 1415, 1417, 1429 (5th Cir. 1996)(en banc). An appeal from a complaint dismissed because it was filed long after the limitations period expired is without merit and therefore frivolous. We caution Phillips that any additional frivolous appeals filed by him or on his behalf will invite the imposition of sanctions. To avoid sanctions, Phillips is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous.

APPEAL DISMISSED, 5th Cir. R. 42.2.

SANCTION WARNING ISSUED.