

United States Court of Appeals for the Fifth Circuit

No. 24-10523
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 18, 2025

Lyle W. Cayce
Clerk

EDWARD BROCKMAN,

Plaintiff—Appellant,

versus

ERIC GUERRERO, *Director, Texas Department of Criminal Justice, Correctional Institutions Division*; SHARRON WILSON; ASSISTANT PROSECUTOR WILLIAM KNIGHT; CAPTAIN FNU MASEDO; D. DEMOSS, *Warden of Ramsey 1*; SHARON WILSON, *Head D.A. (Ex) of Tarrant County Court*; MR. KNIGHT, IS IN VIOLATION OF VINDICTIVE PROSECUTION; WARREN ST. JOHN; UNKNOWN MAGISTRATE OF TARRANT COUNTY COURT,

Defendants—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:23-CV-1086

Before HIGGINBOTHAM, JONES, and OLDHAM, *Circuit Judges*.

PER CURIAM: *

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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Edward Brockman, Texas prisoner # 02209294, initiated the instant 42 U.S.C. § 1983 civil rights action in October 2023. The operative complaint primarily alleged violations of Brockman's constitutional rights by attorneys and judicial officers during his state court criminal proceedings that spanned from June 2016 to 2019. Pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b), the district court sua sponte dismissed those claims, concluding that (1) the defendant prosecutors were absolutely immune from damages; (2) Brockman's defense counsel was not acting under color of state law; and (3) the two-year statute of limitations barred any claims arising from events that occurred before October 2021. Citing Federal Rule of Civil Procedure 54(b), the district court entered a final judgment as to only those claims, and Brockman now appeals from that judgment.

In his merits brief, Brockman does not argue that the district court erred in ruling that his defense counsel was not acting under color of state law, nor does he raise any argument regarding the applicable statute of limitations; he has thus abandoned those issues. *See Mapes v. Bishop*, 541 F.3d 582, 584 (5th Cir. 2008). Regardless, we agree with the district court that Brockman failed to allege sufficient facts establishing that his defense counsel was acting under color of state law. *See Polk Cnty. v. Dodson*, 454 U.S. 312, 318-19 (1981); accord *Russell v. Millsap*, 781 F.2d 381, 383 (5th Cir. 1985). There is also no error in the court's statute-of-limitations ruling. *See King-White v. Humble Indep. Sch. Dist.*, 803 F.3d 754, 758-59, 762 (5th Cir. 2015). In addition, the court did not err in determining that the defendant prosecutors were entitled to absolute immunity. *See Wearry v. Foster*, 33 F.4th 260, 265-66 (5th Cir. 2022).

Finally, Brockman reiterates his remaining claims against state prison officials for civil rights violations during his confinement. Because those claims are still pending before the district court, we lack jurisdiction to

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consider them. *See Gonzalez v. Mid-Continent Cas. Co.*, 969 F.3d 554, 562 (5th Cir. 2020); 28 U.S.C. § 1291.

For these reasons, we DISMISS the appeal, in part, for lack of jurisdiction and AFFIRM the district court's judgment in all other respects. Brockman's motion for a default judgment is DENIED.