

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Submitted March 28, 2023*

Decided March 29, 2023

Before

DIANE S. SYKES, *Chief Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

No. 22-2301

AL HOLIFIELD,
Plaintiff-Appellant,

v.

JON RIVAMONTE, et al.,
Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Wisconsin.

No. 22-cv-0742-bhl

Brett H. Ludwig,
Judge.

ORDER

Al Holifield sued several Milwaukee police officers, alleging that their search of his home violated his constitutional rights under 42 U.S.C. § 1983. The district judge ruled that Holifield's claims were time-barred and dismissed the case. We affirm.

* Appellees were not served with process in the district court and are not participating in this appeal. After examining appellant's brief and the record, we have concluded that the case is appropriate for summary disposition. FED. R. APP. P. 34(a).

According to Holifield's complaint, filed in 2022, Milwaukee police officers obtained an invalid search warrant in August 2010 and used it to enter his home, steal \$30,000, and damage his property. Holifield believes this was in retaliation for his refusal to become a police informant.

Judge Ludwig dismissed Holifield's complaint as time-barred. The judge, noting that state law provides the applicable statute of limitations for § 1983 claims, explained that Wisconsin's six-year limitations period ran out nearly five-and-a-half years earlier. *See* WIS. STAT. § 893.53 (2010); *Milchtein v. Milwaukee County*, 42 F.4th 814, 822 (7th Cir. 2022). The judge considered whether any tolling provision extended the limitations period and concluded that none applied to Holifield's case. The judge acknowledged that Holifield had filed a substantively similar suit in September 2016 against the same officers. *See Holifield v. Rivamonte*, No. 16-cv-1291-pp, 2016 WL 6109072, at *1 (E.D. Wis. Oct. 19, 2016). But that suit—which Holifield voluntarily dismissed just weeks later—was also time-barred, and in any event would have tolled the clock for just two months, *see* WIS. STAT. § 893.13, leaving this suit still more than five years late.

On appeal, Holifield generally challenges the judge's conclusion that tolling principles do not salvage his case. Holifield argues that the limitations period should be equitably tolled because Judge Pepper, who was presiding over his 2016 suit against the officers, allegedly promised him that he could refile the claims at a much later date. Holifield contends that she made this promise in an order issued shortly before he voluntarily dismissed his case. But the judge's order contained no such promise; to the contrary, the judge specified that Holifield could refile "subject to the relevant statute of limitations."

We have considered Holifield's remaining arguments, but none merits discussion.

AFFIRMED