

NONPRECEDENTIAL DISPOSITION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 November 7, 2024*

Decided November 13, 2024

Before

DAVID F. HAMILTON, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 24-2069

KARL C. WRIGHT III,
Plaintiff-Appellant,

v.

MILWAUKEE COUNTY JAIL,
Defendant-Appellee.

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

No. 24-cv-0436-bhl

Brett H. Ludwig,
Judge.

ORDER

Nearly eight years after he alleges he was assaulted by officials at the Milwaukee County Jail, Karl Wright sued the jail for constitutional violations. *See* 42 U.S.C. § 1983.

* The appellee was not served with process and is not participating in this appeal. We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

The district found these claims untimely under the applicable six-year statute of limitations and dismissed the complaint. We affirm the dismissal.

This is not the first time that Wright has tried to litigate a claim arising from an alleged assault by officials at the Milwaukee County Jail on May 8, 2016. In 2017, he sued two jail officials, Rafael Brito and James Ramsey-Guy, for sodomizing and using excessive force against him, in violation of the Fourteenth Amendment. *See Wright v. Brito*, No. 17-CV-64-PP, 2019 WL 1118143 (E.D. Wis. Mar. 11, 2019). Wright alleged that another officer opened his cell, allowing entrance by Brito and Ramsey-Guy, who in turn beat him with closed fists and sexually assaulted him. *Id.* at *1. The district court entered summary judgment for Brito and Ramsey-Guy because there was no evidence that they had assaulted Wright in May 2016 or at any other time. *Id.* at *5.

Wright brought this suit against the jail in April 2024. In this suit, he alleged that the May 2016 assault was facilitated by a third official, Sergeant Wilbourne, then working in the jail's control room. Wright identifies Wilbourne as the official who smoothed the way for the assault by electronically opening his cell door and then repositioned the jail's security camera away from his cell.

The district court screened Wright's complaint, *see* 28 U.S.C. § 1915(e)(2)(B)(ii), and dismissed it because the claims were untimely. The court explained that under Wisconsin's then-applicable statute of limitations, *see* WIS. STAT. § 893.53 (2015), Wright needed to sue within six years of the date when he knew or should have known that he sustained an injury.¹ Having waited nearly eight years to sue, Wright was too late.

On appeal, Wright clarifies that he contends that the statute of limitations should be tolled because he learned only recently that Wilbourne was the third official responsible for opening his cell on May 8, 2016. But Wright may not relitigate the issue of whether he was assaulted that day by Brito and Ramsey-Guy. Issue preclusion bars a party from relitigating an issue of fact or law "actually litigated and resolved in a valid court determination essential to the prior judgment." *Taylor v. Sturgell*, 553 U.S. 880, 892 (2008); *see Bernstein v. Bankert*, 733 F.3d 190, 225 (7th Cir. 2013). Although issue preclusion is an affirmative defense, *see* FED. R. CIV. P. 8(c), we may raise it sua sponte, as here, if its application is plainly apparent from the face of the complaint. *See Arizona*

¹ The statute was amended in 2018 to provide a three-year limitations period, *see* WIS. STAT. § 893.53 (2018), but the older version of the statute applies to Wright's allegations, which addressed events in 2016. *See Milchtein v. Milwaukee Cnty.*, 42 F.4th 814, 822 n.2 (7th Cir. 2022).

v. California, 530 U.S. 392, 412 (2000); *see also Studio Art Theatre of Evansville, Inc. v. City of Evansville*, 76 F.3d 128, 130 (7th Cir. 1996). Wright previously litigated this Fourteenth Amendment claim, and a district court entered summary judgment for the officials based on a lack of proof. Given that court's conclusion, Wright is precluded from relitigating issues relating to the assault.

AFFIRMED