

NONPRECEDENTIAL DISPOSITION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 January 7, 2025*

Decided January 8, 2025

Before

AMY J. ST. EVE, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 24-2654

PHILIP PADILLA,
Plaintiff-Appellant,

v.

JAMIE KUHN, et al.,
Defendants-Appellees.

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

No. 24-CV-821-JPS

J.P. Stadtmueller,
Judge.

ORDER

Philip Padilla appeals the dismissal of his civil-rights suit challenging the constitutionality of his prior state criminal arrest and conviction. *See* 42 U.S.C. § 1983. The district court dismissed Padilla’s complaint as time-barred. We affirm.

* The appellees were not served with process and are not participating in this appeal. We have agreed to decide the case without oral argument because the brief 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).

Padilla was arrested in Oconto County, Wisconsin, in August 2017. He pleaded no contest in Wisconsin state court to enticing a child to engage in sexual contact, *see* WIS. STAT. § 948.07(1) (2017), and was sentenced in March 2018 to 15 months' imprisonment and three years' extended supervision.

In July 2024, Padilla filed this lawsuit, alleging that the arresting officer entrapped him, used excessive force while arresting him, and later—during pretrial detention—placed him in a frigid, isolated cell; and that his defense lawyer rendered ineffective assistance. The district court screened Padilla's complaint, *see* 28 U.S.C. § 1915(e)(2), dismissed any claims that implied the invalidity of his criminal conviction under *Heck v. Humphrey*, 512 U.S. 477 (1994), and dismissed the remaining claims as lacking detail. The court also apprised Padilla that his claims might be barred by the applicable statute of limitations and that any attempt to amend his complaint must address such timing issues.

Padilla amended his complaint to add additional police officer defendants and remove other defendants. The court dismissed the complaint with prejudice. It found that Padilla's claims against the officers were time-barred because the Wisconsin statute of limitations—which in August 2017 was six years,¹ WIS. STAT. § 893.53 (2016)—passed before Padilla filed his complaint. The court also ruled that Padilla could not sue his former defense attorney under § 1983 because public defenders performing traditional lawyers' functions are not state actors, and a § 1983 suit was not a proper vehicle to challenge the validity of his conviction.

Padilla's appellate brief rehashes his allegations and hardly engages the district court's rationale (as required under FED. R. APP. P. 28(a)(8); *Anderson v. Hardman*, 241 F.3d 544, 545–56 (7th Cir. 2001)), but we understand him generally to argue for the first time that restrictions on his internet access prevented him from filing his complaint sooner. However, we may not consider issues raised for the first time on appeal, *Henry v. Hulett*, 969 F.3d 769, 785 (7th Cir. 2020), and Padilla failed to mention any impediments when invited by the district court to file an amended complaint that addressed statute-of-limitations concerns.

To the extent Padilla challenges the dismissal of his ineffective-assistance claim against his defense attorney, that claim was properly dismissed because public

¹ The Wisconsin statute of limitations was shortened in April 2018 to three years. *See Cielak v. Nicolet Union High Sch. Dist.*, 112 F.4th 472, 477 (7th Cir. 2024).

defenders do not act under color of state law when performing the traditional functions of counsel. *Polk County v. Dodson*, 454 U.S. 312, 325 (1981).

AFFIRMED