

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-40227
Conference Calendar

ROBERT D. MURPHY,

Plaintiff-Appellant,

versus

O. GOFFERY, Individually & In Her Official
Capacity as An Officer; JACK B. PURSLEY,
Individually & In His Official Capacity
as An Officer,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:00-CV-8
- - - - -
December 13, 2000

Before DAVIS, STEWART, and PARKER, Circuit Judges.

PER CURIAM:*

Robert D. Murphy, Texas prisoner # 602729, appeals the district court's dismissal as frivolous of his 42 U.S.C. § 1983 complaint. See 28 U.S.C. § 1915(e)(2)(B)(i). Murphy argues that the district court abused its discretion when it concluded that his complaint ran afoul of the applicable statute of limitations. Specifically, Murphy argues that he had filed a state complaint

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

for the same injury within Texas' two-year limitations period. See Tex. Civ. Prac. & Rem. Code Ann. § 16.003(a)(Vernon 1997).

The district court did not abuse its discretion when it dismissed Murphy's complaint, because he filed it in federal court on January 3, 2000, for an injury that accrued on July 22, 1993. See *Gartrell v. Gaylor*, 981 F.2d 254, 256-57 (5th Cir. 1993). Murphy's state-court cause of action did not toll the two-year limitations period. See *Rogers v. Ricane Enter., Inc.*, 930 S.W.2d 157, 167 (Tex. App. 1996). Accordingly, the district court judgment is AFFIRMED.