

FILED

April 11, 2005

Charles R. Fulbruge III
Clerk

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

No. 04-10344
Summary Calendar

DRUCILLA BAKER,

Plaintiff-Appellant,

versus

JOSEPH B. BOGAN; ET AL.,

Defendants,

JOSEPH B. BOGAN, Warden, Federal Medical Center-Carswell, in
his individual capacity; C. STRATMAN, Clinical Supervisor,
Federal Medical Center-Carswell, in his individual capacity,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
(4:02-CV-817-A)

Before JONES, BARKSDALE, and PRADO, Circuit Judges.

PER CURIAM:*

Drucilla Baker, federal prisoner # 13571-064, appeals the dismissal, pursuant to Federal Rule of Civil Procedure 12(b)(6), of her claims under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). Baker contends that the district court erred in ruling her claims are barred by the statute

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

of limitations. She contends that the district court should have tolled the limitations period while her Federal Tort Claims Act (FTCA) claim was pending with the Federal Bureau of Prisons.

A Rule 12(b)(6) dismissal is reviewed *de novo*, to determine "whether[,] in the light most favorable to the plaintiff and with every doubt resolved in his behalf, the complaint states any valid claim for relief". *Collins v. Morgan Stanley Dean Witter*, 224 F.3d 496, 498 (5th Cir. 2000) (quotation omitted). Because Baker did not raise the FTCA tolling issue in the district court, we will not consider it. See *Leverette v. Louisville Ladder Co.*, 183 F.3d 339, 342 (5th Cir. 1999). Even if the limitations period was tolled while her FTCA claim filed pursuant to the Federal Tort Claims Act was pending, Baker's complaint would be untimely.

The judgment of the district court is

AFFIRMED.