

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 95-7972

JAMES ANDREW BALOGH,

Plaintiff - Appellant,

versus

THOMAS SCHICK; HOMER C. GOSSETT, JR.; JOHN
DOE, I; JOHN DOE, II,

Defendants - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Rock Hill. David C. Norton, District Judge.
(CA-95-3251-18)

Submitted: May 16, 1996

Decided:

Before RUSSELL, LUTTIG, and WILLIAMS, Circuit Judges.

Affirmed as modified by unpublished per curiam opinion.

James Andrew Balogh, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Appellant appeals the district court's order adopting the recommendation of the magistrate judge and dismissing Appellant's 42 U.S.C. § 1983 (1988) action without prejudice pursuant to 28 U.S.C. § 1915(d) (1988). We have reviewed the record and the district court's opinion and find no reversible error. Although we find that the record does not support the dismissal of the suit under Heck v. Humphrey, ___ U.S. ___, 62 U.S.L.W. 4594 (U.S. June 24, 1994) (No. 93-6188), we find that Appellant's action is time barred.

There are no federal statutes of limitation for § 1983 actions. Thus, the court must look to state law to determine the applicable time limitation period. Burnett v. Grattan, 468 U.S. 42, 49 (1984). In Wilson v. Garcia, 471 U.S. 261, 279 (1985), the Supreme Court held that the state statute governing personal injury claims should be applied to all § 1983 claims. In South Carolina, for personal injury actions accruing on or after April 5, 1988, the limitations period is three years. S.C. Code Ann. § 15-3-530(5) (Law. Co-op. Supp. 1995).

Appellant alleges that his cause of action arose in December of 1991; he filed this claim in September of 1995. Therefore, Appellant's § 1983 action is barred, and the district court did not abuse its discretion in dismissing Appellant's suit under § 1915(d). See Adams v. Rice, 40 F.3d 72, 74 (4th Cir. 1994), cert. denied, ___ U.S. ___, 63 U.S.L.W. 3690 (U.S. Mar. 20, 1995) (No. 94-7733). Accordingly, we affirm the order of the district court on

those modified grounds. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED AS MODIFIED