

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

BILLY RAY COPLEY,

Plaintiff-Appellant,

v.

B. CRAIG ELLIS; STEVE BIBEY; LANE
CARTER; JAMES W. WISE; SHERWOOD

No. 96-7931

LAPPING; MR. SMITH; ROBERT S.

EWING; MALCOLM W. OWINGO;

D. A. KELLY; PAUL S. HELMS;

MARY E. MCKETTER,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of North Carolina, at Raleigh.
James C. Fox, Chief District Judge.
(CA-96-1006-F)

Submitted: May 29, 1997

Decided: June 11, 1997

Before NIEMEYER, LUTTIG, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

COUNSEL

Billy Ray Copley, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Billy Ray Copley appeals the district court's order denying relief on his complaint under 42 U.S.C. § 1983 (1994). He alleges that weapons belonging to him were confiscated and destroyed. The district court dismissed the action as frivolous on grounds that, as the events complained of occurred in 1982, the statute of limitations barred the claims. As Copley notes on appeal, the events complained of occurred in 1992-1993. But Copley admits he voluntarily turned the weapons over to police. After his criminal conviction, the weapons were destroyed at the order of the sentencing judge, though Copley alleges he asked his court-appointed attorneys to recover them.

Copley handed over his weapons to the police in an effort to convince a domestic judge to return Copley's children to his home. Therefore, he has no claim against the police. The judge who ordered the guns destroyed after Copley's criminal conviction, and the sheriff who acted at his direction, are immune from the action. Stump v. Sparkman, 435 U.S. 349, 356-57 (1978); cf. McCray v. Maryland, 456 F.2d 1, 4-5 (4th Cir. 1972) (court clerk may enjoy derivative immunity when acting at the direction of a judge). Copley's court-appointed attorneys are not amenable to suit under § 1983 as they did not act under color of state law. Hall v. Quillen, 631 F.2d 1154, 1155-56 (4th Cir. 1980).

Therefore, the complaint was subject to summary dismissal, 28 U.S.C.A. § 1915A (West 1994 & Supp. 1997), and the appeal is frivolous. 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.

DISMISSED