

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

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GARY CHAMBERS,		:	
		:	
Plaintiff,		:	
		:	
v.		:	Civil No.3:02CV02050(AWT)
		:	
WATERBURY POLICE		:	
DEPARTMENT, et al.,		:	
		:	
Defendants.		:	
-----X			

MEMORANDUM OF DECISION

The defendants' motion to dismiss is being granted because this action is barred by the statute of limitations.

I. Legal Standard

Dismissal pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted is not warranted "unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Conley v. Gibson, 355 U.S. 41, 45-46 (1957). The task of the court in ruling on a Rule 12(b)(6) motion "is merely to assess the legal feasibility of the complaint, not to assay the weight of the evidence which might be offered in support thereof." Ryder Energy Distribution Corp. v. Merrill Lynch Commodities Inc., 748 F.2d 774, 779 (2d Cir. 1984) (internal quotes and citation omitted). The court is required to accept as true all factual allegations in the complaint and must draw all reasonable

inferences in favor of the plaintiff. See Hernandez v. Coughlin, 18 F.3d 133, 136 (2d Cir. 1994). However, “[w]hile the pleading standard is a liberal one, bald assertions and conclusions of law will not suffice.” Leeds v. Meltz, 85 F.3d 51, 53 (2d Cir. 1996).

II. Discussion

The plaintiff brings this action pursuant to 42 U.S.C. § 1983, claiming violations of his civil rights. Specifically, he alleges that he was falsely arrested and maliciously prosecuted and that his due process rights were violated. All the plaintiff’s claims arise out of his arrest on October 1, 1999. The charges against the plaintiff were dismissed on October 25, 1999. However, because the plaintiff was on parole at the time of the arrest, he remained confined, in the custody of the Connecticut Department of Correction, on parole violation charges until January 13, 2000. The plaintiff commenced this lawsuit no earlier than October 30, 2002.

In the absence of a federal rule to determine the statute of limitations in a § 1983 action, courts should look to state statutes of limitations. Wilson v. Garcia, 471 U.S. 261 (1985). The Supreme Court has suggested that courts should “select, in each State, the one most appropriate statute of limitations for all § 1983 claims.” Id. at 275. In Connecticut, the three-year statute of limitations set forth in Conn. Gen. Stat. § 52-577 is the applicable statute of limitations for civil rights actions brought pursuant to 42 U.S.C. § 1983. See Lounsbury v. Jeffries, 25 F.3d 131, 134 (2d Cir. 1994); In re State Police

Litigation, 888 F.Supp. 1235, 1248-49 (D.Conn. 1995); Brown v. Wargo, 815 F.Supp. 59, 60 (D.Conn. 1992).

Although courts look to state statutes of limitation for § 1983 claims, federal law governs when the claims accrue, i.e. the date on which the statute of limitations begins to run. Ormiston v. Nelson, 117 F.3d 69, 71 (2d Cir. 1997); Eagleston v. Guido, 41 F.3d 865, 871 (2d Cir. 1994). Generally, the statute of limitations on a federal cause of action begins to run at the time the claimant “knew or should have known of the injury that is the basis of the cause of action.” Singleton v. City of New York, 632 F.2d 185, 191-92 (2d Cir. 1980). Therefore, a claim for false arrest or false imprisonment accrues at the time of the arrest or imprisonment at issue. Id.

The arrest at issue here occurred on October 1, 1999, and the criminal case against the plaintiff was dismissed on October 25, 1999. All of the plaintiff’s claims arise out of the arrest and subsequent criminal prosecution. Thus, at the latest, the statute of limitations expired on October 25, 2002, which is prior to the date on which the plaintiff commenced this action.

The plaintiff contends that, under the continuing course of conduct doctrine, his cause of action accrued on January 13, 2000, the day on which he was released by the Department of Correction. However, the detention of the plaintiff by the Department of Correction does not constitute a continuing course of conduct on the part of defendants.

While it is true that the plaintiff's detention by the Department of Correction was a consequence of the defendants' arrest of the plaintiff, that detention did not constitute conduct on the part of any defendant. Thus, the plaintiff's reliance on the continuing course of conduct doctrine is misplaced because "[a] continuing violation is occasioned by continuing unlawful acts, not by continued ill effects from the original violation." Doe v. Blake, 809 F.Supp. 1020, 1025 (D.Conn. 1992), citing Ward v. Caulk, 650 F.2d 1144, 1147 (9th Cir. 1981). Accordingly, the plaintiff's claim is time barred, and the defendants' motion to dismiss should be granted.

III. Conclusion

For the reasons set forth above, the defendants' Motion to Dismiss (Doc. #10) is hereby GRANTED.

The Clerk shall close the case.

It is so ordered.

Dated this 17th day of April, 2003, at Hartford, Connecticut.

Alvin W. Thompson
United States District Judge