

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Submitted August 16, 2023*

Decided August 16, 2023

Before

DIANE P. WOOD, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 23-1412

DANA WATSON,
Plaintiff-Appellant,

v.

METROPOLITAN ENFORCEMENT
GROUP OF SOUTHERN ILLINOIS,
Defendant-Appellee.

Appeal from the United States District
Court for the Southern District of
Illinois.

No. 3:22-cv-2555-JPG

J. Phil Gilbert,
Judge.

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

ORDER

Dana Watson sued the Metropolitan Enforcement Group of Southern Illinois (MEGSI),¹ a multijurisdictional law enforcement task force, for civil rights violations after officers executed a no-knock warrant at her home. Because she filed her complaint more than eight years after the incident, the district court concluded that the statute of limitations bars her suit. We agree and affirm the dismissal.

According to Watson's operative complaint, MEGSI officers executed a no-knock warrant at her East St. Louis home in January 2014. In the early morning, officers kicked in the door and threw a stun grenade into the home, surrounded an undressed Watson and pointed their guns at her, frisked her, and searched the home for drugs. (They purportedly had received a tip that drugs were being sold there.) Officers seized Watson's legally owned handgun and cash that she had saved to pay a contractor. She was not taken into custody, and although state charges were filed, they were later dismissed. According to Watson, the court clerk still has not released the cash (despite a court order to do so) or the handgun.

In 2022, eight years after the search and seizure, Watson sued MEGSI in state court. She alleged that the officers had violated her constitutional rights, in addition to acting with negligence, displaying willful or wanton conduct, and inflicting emotional distress. MEGSI removed the case under 28 U.S.C. § 1441(a), invoking federal-question and supplemental jurisdiction, *id.* §§ 1331, 1367. After Watson amended her complaint,

¹ MEGSI is a task force composed of federal, state, and local law enforcement officers under the auspices of the Illinois State Police. ILL. STATE POLICE, 2014 ANNUAL REPORT 50, available at <https://isp.illinois.gov/StaticFiles/docs/Directors/LegislationNPublicNotice/annrpt14.pdf>. In her amended complaint, Watson named only MEGSI as a defendant, and MEGSI argued in its motion to dismiss that Watson failed to allege grounds for its liability under *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 690 (1978). We note, however, that it is not clear to us that *Monell* should apply to a group managed by the state police; *Monell* applies to municipalities. But if MEGSI is best considered a state agency, then it would not be a "person" subject to suit under § 1983, *see Will v. Mich. Dep't of State Police*, 491 U.S. 58, 71 (1989). On the other hand, if MEGSI is a group within or among agencies of government, it might not even be a suable entity. *See Rogers v. City of Hobart*, 996 F.3d 812, 819 n.13 (7th Cir. 2021). Because we conclude that Watson's complaint is barred by the statute of limitations, we need not decide these non-jurisdictional matters.

MEGSI moved to dismiss under Federal Rule of Civil Procedure 12(b)(6) because, among other reasons, the suit was untimely.²

The district court agreed that the statute of limitations barred the claims. It explained that, because we borrow the statute of limitations for § 1983 claims from the forum state, *see Wallace v. Kato*, 549 U.S. 384, 388 (2007), Watson’s state and federal claims were both subject to the two-year statute of limitations set forth in 735 ILCS 5/13-202. More than eight years had passed between the allegedly unlawful conduct and the filing of the complaint, so the court granted the motion to dismiss. Watson appeals, and we review the decision *de novo*. *Neita v. City of Chicago*, 830 F.3d 494, 496 (7th Cir. 2016).

Watson argues that her suit should be considered timely. We apply federal law to determine when Watson’s § 1983 claims accrued—when the alleged constitutional violation was complete, and she knew of her injury and its cause. *Wallace*, 549 U.S. at 387–88. Watson’s complaint makes clear that she believed the forced entry, the search, and the seizure of her property were unlawful as they were occurring, and so claims about those actions accrued immediately. *See Neita*, 830 F.3d at 498. The same is true of any unlawful seizure of Watson herself, because she was not detained after the search. *See Lewis v. City of Chicago*, 914 F.3d 472, 478 (7th Cir. 2019). And under Illinois law, the state law claims, too, accrued when she knew she had been injured and the injury was wrongfully caused. *Khan v. Deutsche Bank AG*, 978 N.E.2d 1020, 1028–29 (Ill. 2012). Therefore, Watson’s claims, brought eight years after they accrued, were untimely.

Watson invokes equitable tolling, but her assertion that she followed an attorney’s advice does not satisfy the conditions for applying this doctrine. Under Illinois law (which supplies the tolling rules here, *see Wallace*, 549 U.S. at 394), equitable tolling applies under limited circumstances, such as when a defendant actively misleads the plaintiff. *Clay v. Kuhl*, 727 N.E.2d 217, 223 (Ill. 2000). Watson has not argued that any recognized circumstance is present here. Her reliance on potentially misleading advice from her attorney—not the defendant—does not justify tolling against MEGSI. *See Modrowski v. Mote*, 322 F.3d 965, 967 (7th Cir. 2003) (“[W]e, and numerous other courts, have held that attorney negligence is *not* grounds for equitable tolling.”); *Griffin*

² Ordinarily a statute of limitations defense should not be raised under Rule 12(b)(6), but dismissal under that rule is allowed if the complaint contains everything needed to establish the affirmative defense. *Collins v. Vill. of Palatine*, 875 F.3d 839, 842 (7th Cir. 2017).

v. Willoughby, 867 N.E.2d 1007, 1016 (Ill. App. Ct. 2006) (equitable tolling not justified where plaintiff's attorney was mistaken about the statute of limitations period).

AFFIRMED