

Commonwealth of Kentucky
Court of Appeals

NO. 2009-CA-001903-MR

LARRY E. WATKINS-EL

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE IRV MAZE, JUDGE
ACTION NO. 09-CI-008301

MICKEY KING AND
MICHAEL WILCOXSON

APPELLEES

OPINION
AFFIRMING

** ** * * * * *

BEFORE: TAYLOR, CHIEF JUDGE; DIXON, JUDGE; HENRY,¹ SENIOR
JUDGE.

¹ Senior Judge Michael L. Henry sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes 21.580.

TAYLOR, CHIEF JUDGE: Larry E. Watkins-El brings this *pro se* appeal from a September 15, 2009, Opinion and Order of the Jefferson Circuit Court dismissing his complaint brought under 42 U.S.C. § 1983. We affirm.

Appellant filed a *pro se* complaint against Mickey King, a Louisville Metro Police Officer, and Michael Wilcoxson, appellant's parole officer.

Appellant alleged that in 2007, King wrongfully arrested him and charged him with drinking alcohol in a public place and loitering. Appellant also claimed that Wilcoxson improperly failed to obey "special conditions" of appellant's parole and made false allegations against him. Appellant further asserted that King and Wilcoxson conspired and retaliated against him in violation of 42 U.S.C. § 1983. King and Wilcoxson filed a motion to dismiss based upon expiration of the statute of limitations. By order entered September 15, 2009, the circuit court granted the motion and dismissed the complaint as time-barred. This appeal follows.

Appellant contends the circuit court erroneously dismissed his complaint as time-barred. We disagree.

In dismissing appellant's complaint, the circuit court reasoned:

The statute of limitations for 42 U.S.C. § 1983 actions is a one-year period which, in this case, began to run when [appellant] became held pursuant to legal process. *Dunn v. Felty*, 226 S.W.3d 68, 72 (Ky. 2007); KRS 413.140. On August 15, 2007, Officer King cited [appellant] for Drinking Alcohol in a Public Place and Loitering. Following his parole revocation [November

20, 2007], [appellant] filed the instant suit on August 19, 2009, clearly after the time to bring the instant action suit had expired. Therefore, this Court finds that [appellant] is not entitled to relief in this case since the suit was filed well after the statute of limitations had expired. . . .

We view the circuit court's reasoning persuasive. Moreover, appellant's argument that his complaint was timely because of an earlier filed writ of mandamus is simply without merit. In short, we conclude that the circuit court properly dismissed appellant's claims under 42 U.S.C. § 1983 as untimely.

For the foregoing reasons, the Opinion and Order of the Jefferson Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Larry E. Watkins-El, *Pro Se*
Beattyville, Kentucky

BRIEF FOR APPELLEE:

Michael J. O'Connell
Lisa L. Langford
Louisville, Kentucky