

United States Court of Appeals
For the Eighth Circuit

No. 18-2358

James Elmer Shaw

Plaintiff - Appellant

v.

Troy Ponto, Associate Warden, Individual and Official Capacity; Al Madsen, Unit Manager, Individual and Official Capacity, Sam Badure, Unit Manager, Individual and Official Capacity, Derick Bieber, Unit Manager, Individual and Official Capacity, Jacob Glasier, Unit Coordinator, Individual and Official Capacity, Dr. Mary Carpenter, M.D. (Health Services), Individual and Official Capacity; Dr. Eugene Regier, M.D., Individual and Official Capacity; Heather Bowers, RN (Health Services), Individual and Official Capacity; Audrey Shedd, Head Register Nurse, Individual and Official Capacity

Defendants - Appellees

Appeal from United States District Court
for the District of South Dakota - Sioux Falls

Submitted: May 10, 2019

Filed: May 17, 2019

[Unpublished]

Before ERICKSON, WOLLMAN, and GRASZ, Circuit Judges.

PER CURIAM.

In this 42 U.S.C. § 1983 action, the district court¹ adopted in part a magistrate judge's² recommendation to grant partial summary judgment on some of Shaw's claims, and following a jury trial, entered judgment on the jury verdict against him on his remaining claims. On appeal, Shaw challenges only the partial grant of summary judgment, arguing that the district court erred in determining that some of his claims were barred by the statute of limitations and that the court failed to recognize that his verified complaint was the equivalent of an affidavit for summary judgment purposes.

We conclude that the district court did not err in finding that some of Shaw's claims were time-barred. See Bell v. Fowler, 99 F.3d 262, 265-66 (8th Cir. 1996) (South Dakota's 3-year statute of limitations applies to § 1983 actions). Further, after de novo review of the summary judgment record, including Shaw's verified complaint, we conclude that the grant of partial summary judgment was warranted. See Roberson v. Hayti Police Dep't, 241 F.3d 992, 994-95 (8th Cir. 2001) (grant of summary judgment is reviewed de novo; record is reviewed in light most favorable to nonmoving party; verified complaint is equivalent of affidavit for summary judgment purposes). Accordingly, we affirm. See 8th Cir. R. 47B.

¹The Honorable Karen E. Schreier, United States District Judge for the District of South Dakota.

²The Honorable Veronica L. Duffy, United States Magistrate Judge for the District of South Dakota.