

NOV 19 2012

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BRANDON MAXFIELD,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p style="text-align: center;">v.</p> <p>GLENN FAIRALL,</p> <p style="text-align: center;">Defendant - Appellee.</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

No. 11-35944

D.C. No. 6:11-cv-00285-TC

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Oregon  
Michael R. Hogan, District Judge, Presiding

Submitted November 13, 2012\*\*

Before: CANBY, TROTT, and W. FLETCHER, Circuit Judges.

Oregon state prisoner Brandon Maxfield appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging excessive force as barred by the statute of limitations. We have jurisdiction under 28 U.S.C.

---

\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 1291. We review de novo. *Lukovsky v. City & County of San Francisco*, 535 F.3d 1044, 1047 (9th Cir. 2008). We affirm.

The district court properly dismissed the complaint as time-barred because Maxfield filed it after the statute of limitations had run. *See* Or. Rev. Stat.

§ 12.110(1) (two-year statute of limitations for personal injury claims); *Douglas v. Noelle*, 567 F.3d 1103, 1109 (9th Cir. 2009) (“State law governs the statute of limitations period for § 1983 suits and closely related questions of tolling.”).

The district court properly rejected Maxfield’s equitable tolling argument because Oregon law does not allow tolling during periods of imprisonment. *See Douglas*, 567 F.3d at 1109.

The district court properly rejected Maxfield’s equitable estoppel argument because Maxfield failed to allege a basis for estoppel. *See Philpott v. A.H. Robins Co., Inc.*, 710 F.2d 1422, 1425 (9th Cir. 1983) (for equitable estoppel to apply, there must be an affirmative inducement by defendant that delayed plaintiff from timely filing suit).

**AFFIRMED.**