

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
PINE BLUFF DIVISION

CRAIG STIFF,  
ADC #111330

PLAINTIFF

v.

5:09CV00092DPM/JTK

ROBERT F. MOREHEAD, et al.

DEFENDANTS

ORDER

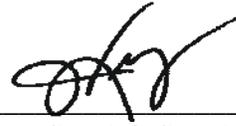
This matter is before the Court on the motion to dismiss filed by the defendant, the City of Dermott (Doc. No. 35). Plaintiff has filed a response in opposition to the motion (Doc. No. 40).

In support of the motion to dismiss, defendant states plaintiff's action should be dismissed as barred by the three-year statute of limitations applicable to actions filed pursuant to 42 U.S.C. § 1983. In his response, plaintiff acknowledges that this action was not filed within three years of the incident at issue, but argues that equitable tolling should apply to permit the untimely filing. Plaintiff also asks for the opportunity in which to present evidence that his former attorney's failure to file the lawsuit in accordance with his wishes constitutes an extraordinary circumstance rendering the equitable tolling argument proper.

Prior to holding a hearing on this issue, the Court would like the parties to file additional briefs on the equitable tolling issue, its application in Arkansas, and its application in cases with facts similar to those at issue here. The parties may also submit affidavits in support of their respective positions, if appropriate. Accordingly,

IT IS, THEREFORE, ORDERED that the parties shall submit additional briefs in support of their respective positions on the statute of limitations issue and the application of equitable tolling to this case, within twenty days of the date of this Order.

IT IS SO ORDERED this 20<sup>th</sup> day of May, 2010.

A handwritten signature in black ink, appearing to be 'OK' or similar, written above a horizontal line.

UNITED STATES MAGISTRATE JUDGE