

1 concern the dismissal motion.

2 "On or about July 16, 2012[,] Plaintiffs Jack
3 Mitchell, Jr. and Marja Mitchell . . . were stopped ostensibly
4 for speeding by [Federal] Rangers and Defendants Steven Culver
5 and Brian J. Densmore on California State Highway 299." (Compl.
6 ¶ 1, ECF No. 1.) Plaintiffs allege they were not speeding, and
7 although they complied with Defendants' commands during the
8 traffic stop, Defendants detained and subsequently arrested them
9 for failing to follow a lawful order. (Compl. ¶¶ 3-5, 25-27.)
10 "[N]o speeding charge[s were] ever brought [against Plaintiffs,]
11 and all criminal charges were dismissed in Redding, CA by
12 Magistrate Judge Craig Kellison on or about January 8, 2013."
13 (Compl. ¶ 28.)

14 II. DISCUSSION

15 The applicable statute of limitations in a Bivens
16 action is the state's "personal injury" statute. Van Strum v.
17 Lawn, 940 F.2d 406, 409-10 (9th Cir. 1991). "[T]he rationale for
18 applying [a state's] statute of limitations for personal injury
19 [actions] . . . to Bivens actions [is that federal constitutional
20 torts] come solely from the provisions of the Constitution
21 protecting personal rights." Id. In California, the limitations
22 period for personal injury actions is two years, since section
23 335.1 of the California Code of Civil Procedure prescribes "[a]n
24 action for assault . . . or injury to . . . an individual caused
25 by the wrongful act or neglect of another" shall be commenced
26 within two years.

27 "Although state law determines the length of the
28 limitations period, federal law determines when a civil rights

1 claim accrues. [A] claim accrues when the plaintiff knows or has
2 reason to know of the injury which is the basis of the action."
3 Olsen v. Idaho State Bd. of Med., 363 F.3d 916, 926 (9th Cir.
4 2004) (alteration in original) (citations and internal quotation
5 marks omitted). Defendants argue:

6 Plaintiffs allege [Defendants] falsely
7 arrested them on July 16, 2012. Therefore,
8 their . . . claims . . . accrued on July 16,
9 2012, and the statute of limitations for
10 filing a false arrest lawsuit expired on
11 July 16, 2014. On the face of the January 8,
12 2015 [filed C]omplaint, [P]laintiffs' false
13 arrest claims are time-barred, having been
14 almost six months too late.

15 (Mem. P.&A. ISO Mot. Dismiss ("Mot.") 4:13-18, ECF No. 13-1.)

16 Plaintiffs agree that California Code of Civil
17 Procedure section 335.1 is "the applicable statute of limitations
18 period[,] " and that a "false arrest/false imprisonment [claim]
19 accrues at the time of the arrest." (Pls.' Opp'n to Mot.
20 ("Opp'n") 3:12-14, ECF No. 16.) However, Plaintiffs argue their
21 lawsuit was timely filed in light of the tolling provision in
22 California Government Code section 945.3. "This section prevents
23 civil actions against peace officers from being filed while
24 criminal charges are pending against the potential plaintiff[s
25 and] . . . tolls the statute of limitations on the civil actions
26 until the criminal charges are resolved." Harding v. Galceran,
27 889 F.2d 906, 907-08 (9th Cir. 1989). Plaintiffs argue:

28 [Plaintiffs' criminal] case was dismissed by
the Magistrate in Redding, CA on or about
January 8, 2013. Using Federal Rules of Civil
Procedure, Rule 6 and [section 945.3], the
complaint had to be filed by January 9, 2015.
This matter was [timely] filed on or about
January 8, 2015.

1 (Opp'n 4:2-4.)

2 Defendants reply "that the Ninth Circuit has held that
3 section 945.3 . . . does not apply to federal law enforcement
4 officers like the [Federal] Rangers here." (Defs.' Reply ISO Mot.
5 1:26-28, ECF No. 18.)

6 California Government Code section 945.3 prescribes in
7 relevant part:

8 No person charged [with] . . . a criminal
9 offense may bring a civil action for money or
10 damages against a peace officer or the public
11 entity employing a peace officer based upon
12 conduct of the peace officer relating to the
13 offense for which the accused is
14 charged . . . while the charges against the
accused are pending before a superior court.
Any applicable statute of limitations for
filing and prosecuting these actions shall be
tolled during the period that the charges are
pending before a superior court.

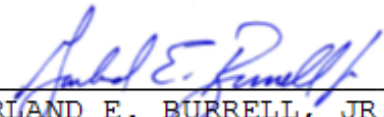
15 Cal. Gov. Code § 945.3 (emphasis added).

16 The California Penal Code contains provisions that
17 define "peace officer." The provision pertinent to each party's
18 argument here is California Penal Code section 830.8(c) which
19 states in pertinent part: "National park rangers are not
20 California peace officers" The Ninth Circuit stated in
21 Matthews v. Macanas, 990 F.2d 467 (9th Cir. 1993) (per curiam),
22 abrogated on other grounds: "Under California law,
23 '[f]ederal . . . law enforcement officers are not California
24 peace officers,' although they may exercise powers of arrest
25 provided that they are engaged in the enforcement of federal
26 criminal law. Because federal officers are not 'peace officers'
27 section 945.3's tolling provision does not apply to federal
28 officials." Id. at 469 (citation omitted).

1 Since the Federal Rangers are not "peace officers" as
2 prescribed in section 945.3 Plaintiffs' Fourth Amendment claims
3 are barred by the statute of limitations; in light of Plaintiffs'
4 allegation that they were seized on July 16, 2012, this date is
5 more than two years before Plaintiffs filed their complaint on
6 January 8, 2015. Therefore, Plaintiffs' Complaint is dismissed
7 since it was not filed within the applicable statute of
8 limitations period. However, Plaintiffs are granted (14) days
9 from the date on which this order is filed to file a First
10 Amended Complaint addressing the referenced deficiency in their
11 Complaint.

12 Dated: August 24, 2015

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GARLAND E. BURRELL, JR.
Senior United States District Judge