

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

CIVIL ACTION NO. 3:07CVP- 261-H

JOSEPH W. ALLEN

PLAINTIFF

V.

NASIRUDDIN SIDDIQUI, et al.

DEFENDANTS

MEMORANDUM OPINION AND ORDER

Defendants, Nasiruddin Siddiqui, M.D. and Frank Deland, M.D., have each moved to dismiss all the claims arising from their medical treatment on the grounds that the statute of limitations bars those claims. This case is brought *pro se* by an inmate who was once treated by each of the physicians. Plaintiff asserts claims under state tort law and 28 U.S.C. § 1983. Each Defendant has now disclosed that they treated Plaintiff no later than June 2005. Plaintiff did not file his lawsuit until almost two years afterwards, May 21, 2007. Consequently, on its face, the applicable statute of limitations, KRS 413.140, would bar his claims under state law or 28 U.S.C. § 1983. *See Owens v. Okure*, 488 U.S. 235, 250 (1989).

Plaintiff has suggested that he may not have discovered the consequences of the alleged mistakes until some time after the treatment date. However, as Defendants describe in their briefing, the evidence in the case suggests that Plaintiff obtained the requisite knowledge to bring a lawsuit no later than September 1, 2005. Under these circumstances, Plaintiff's claims remain barred. The Court believes that these conclusions are quite clear from the record as applied to the applicable law. No further discussion is necessary.

Plaintiff had plenty of opportunity to respond to the motions and has offered no viable suggestion that the statute of limitations should be stayed or that the causes of action arose at a later time. Discovery time appears to have run and the Court will set a time for motions. Being otherwise sufficiently advised,

IT IS HEREBY ORDERED that Plaintiff's motion to continue is DENIED.

IT IS FURTHER ORDERED that all claims against Defendants, Nasiruddin Siddiqui, M.D. and Frank Deland, M.D., are DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that on or before **September4, 2009**, the parties shall file any pretrial motions.

cc: Joseph W. Allen, *Pro Se*
Counsel of Record