

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

TARA STANBERRY)
)
 Plaintiff,)
)
 v.)) No. 2:17-CV-18 PLC
)
 MONROE CITY, MO, POLICE)
 DEPARTMENT, et al.,)
)
 Defendants.)

MEMORANDUM AND ORDER

Plaintiff seeks leave to proceed in forma pauperis in this civil action under 42 U.S.C. § 1983 for violations of her right to be free from unlawful searches and seizures. The motion is granted. Additionally, this action is dismissed under 28 U.S.C. § 1915(e).

Standard of Review

Under 28 U.S.C. § 1915(e), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. Additionally, “a district court may properly dismiss an in forma pauperis complaint under 28 U.S.C. § 1915[] when it is apparent the statute of limitations has run.” *Myers v. Vogal*, 960 F.2d 750, 751 (8th Cir. 1992). Section 1983 claims are analogous to personal injury claims and are subject to Missouri’s five-year statute of limitations. *Sulik v. Taney County, Mo.*, 393 F.3d 765, 766-67 (8th Cir. 2005); Mo. Rev. Stat. § 516.120(4).

Discussion

Plaintiff alleges that on August 5, 2011, four Monroe City police officers entered her home without a warrant and ransacked her property. They took her gun, and they claimed it belonged to Kevin Stanberry (“Kevin”). Kevin was arrested for possessing the firearm. Plaintiff

says after she bailed Kevin out of detention the officers returned to her home and harassed them. Kevin was convicted of a crime with respect to possession of the gun. Plaintiff seeks to overturn Kevin's conviction as well as money damages.

The five-year statute of limitations period expired on August 5, 2016. Therefore, this action is untimely, and it is dismissed.

Moreover, to the extent that plaintiff seeks to overturn Kevin's conviction, the claim must be brought in a petition for writ of habeas corpus. Such relief is not available in a case brought under § 1983.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis [ECF No. 2] is **GRANTED**.

IT IS FURTHER ORDERED that this action is **DISMISSED** without prejudice.

An Order of Dismissal will be filed forthwith.

Dated this 3rd day of April, 2017.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE