

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

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|------------------------|---|----------------------------|
| DENNIS BALL-BEY, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. 4:18-CV-01364-SPM |
| |) | |
| KYLE CHANDLER, et al., |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM AND ORDER

This matter is before the Court on the Motion to Dismiss Plaintiff’s Assault and Battery Claims filed by Defendants Kyle Chandler and Ronald Vaughn (the “Officer Defendants”). (Doc. 74). The parties have consented to the jurisdiction of the undersigned United States Magistrate Judge pursuant to 28 U.S.C. § 636(c) (Doc. 12). For the following reasons, the motion will be granted.

In the instant motion, the Officer Defendants ask the Court to dismiss the assault and battery claims in Count II of the Second Amended Complaint because the claims were not filed within the two-year period dictated by the applicable statute of limitations. Plaintiff previously asserted the assault and battery claims at issue in Count II of the First Amended Complaint, and the Officer Defendants moved to dismiss those claims as untimely. Plaintiff did not dispute that argument. On May 8, 2020, the Court entered a Memorandum and Order finding the assault and battery claims in Count II were barred by the applicable statute of limitations and granting the Officer Defendants’ motion to dismiss those claims. (Doc. 69).¹

¹ The Court denied the Officer Defendants’ motion to dismiss the wrongful death claim in Count II. They do not renew their motion to dismiss that aspect of Count II in the instant motion.

Nothing in the Second Amended Complaint changes the Court's conclusion that Plaintiff's assault and battery claims are barred by the applicable statute of limitations. The factual allegations regarding the alleged assault and battery in the Second Amended Complaint are substantively the same as those in the First Amended Complaint, and the date on which the alleged assault and battery occurred is identical. Thus, for the reasons stated in the Court's prior Memorandum and Order, the assault and battery claims will be dismissed as untimely.

Accordingly,

IT IS HEREBY ORDERED that the Motion to Dismiss Count II filed by Defendants Kyle Chandler and Ronald Vaughn (Doc. 74) is **GRANTED**. The assault and battery claims in Count II are **DISMISSED**, with prejudice.



SHIRLEY PADMORE MENSAH
UNITED STATES MAGISTRATE JUDGE

Dated this 16th day of November, 2020