

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA

HERBERT BUCKLAND and JANE BUCKLAND, Plaintiffs, v. DOUGLAS BUCKLAND, DEPUTY MONICA SMITH, DETECTIVE DWAYNE HALL, and DETECTIVE JASON JACKSON, Defendants. No. CIV-11-285-FHS

OPINION AND ORDER

On October 11, 2011, the Court entered an Opinion and Order granting a motion to dismiss filed by Defendants, Deputy Monica Smith, Detective Dwayne Hall, and Detective Jason Jackson based, in part, on a finding that Plaintiffs' claims, both constitutional and under state law, are barred by the two-year limitation period of 12 O.S. § 95(A)(3). On that same day, the Court directed Plaintiffs to show cause why the Court's Opinion and Order granting the motion to dismiss should not be applied to dismiss the remaining defendant, Douglas Buckland. On October 18, 2011, Plaintiffs filed their response. On October 21, 2011, Defendant, Douglas Buckland, filed his reply. Having considered the respective submissions of the parties, the Court finds Plaintiffs have not shown cause why this action should not be dismissed as to Defendant, Douglas Buckland.

While it addresses the factual circumstances underlying the parties' dispute, Plaintiffs' response wholly fails to address the statute of limitations argument. Nothing in the voluminous materials submitted by Plaintiffs refutes the Court's previous

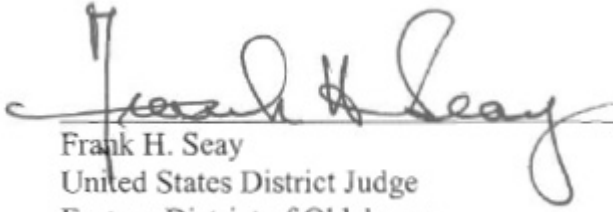
finding that April 7, 2008, is "the latest date for any alleged violation of Plaintiff's constitutional or state law-based rights."¹ This action was commenced more than three years later on August 19, 2011. Consequently, the Court adopts the reasoning of its previous Opinion and Order and finds that Plaintiffs' claims against Defendant, Douglas Buckland, are likewise barred by the two-year limitation period of 12 O.S. § 95(A)(3).²

Based on the foregoing reasons, the Court finds all claims asserted by Plaintiffs against Defendant, Douglas Buckland, are barred by the statute of limitations, 12 O.S. § 95(A)(3). Defendant, Douglas Buckland, is ordered dismissed from this action. In light of the dismissal of all named defendants herein, this action is ordered dismissed in its entirety.

¹ In its Opinion and Order, the Court noted Plaintiffs' Complaint contains allegations of an August 19, 2009, "failure to investigate" claim against a non-defendant, Ryan Boggs. The Court dismissed this claim as to Defendants, Smith, Hall and Jackson on grounds other than the statute of limitations. This "failure to investigate" claim has no application to Defendant, Douglas Buckland.

² In his reply, Defendant, Douglas Buckland, contends Plaintiffs' claims are also subject to dismissal based on the compulsory counterclaim rule. The Court declines to address this argument as it was not a basis for the Court's previous dismissal order. This argument was first raised by Defendant, Douglas Buckland, in his reply to the show cause order and Plaintiffs' have not had an opportunity to respond to such additional argument.

It is so ordered this 25th day of October, 2011.

A handwritten signature in black ink, appearing to read "Frank H. Seay". The signature is written in a cursive style with a prominent vertical stroke on the left side.

Frank H. Seay
United States District Judge
Eastern District of Oklahoma