

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

CLEVELVET BRAGG,
TDCJ 1337896,

Plaintiff,

versus

THE SECRETARY OF THE ARMY,

Defendant.

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CIVIL ACTION H-08-1153

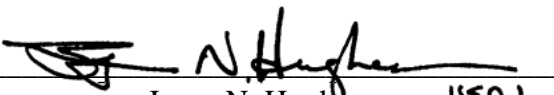
Opinion on Dismissal

Clevelvet Bragg sues the Secretary of the Army for civil rights violations. Bragg’s claims concern his induction into the Army and discharge under court martial. The events underlying his complaint occurred in 1970. In 1995, Bragg discovered that Captain Donald Heck committed fraud and perjury at Bragg’s court martial. The most generous statute of limitations governing Bragg’s claims is six years. *See Brown v. Nationsbank Corp.*, 188 F.3d 579, 590 (5th Cir. 1999) (a *Bivens* action in Texas is two years); 28 U.S.C. §1658 (four years); 28 U.S.C. §2401 (six years).

The latest Bragg could have filed his complaint within the statute of limitations was December 31, 2001, six years after he discovered Captain Heck’s misdeeds. Bragg’s complaint is more than six years late. This case will be dismissed for failure to state a claim on which relief may be granted. 28 U.S.C. § 1915(e)(2)(B).

The TDCJ will deduct 20% of each deposit to plaintiff’s inmate account and pay this to the court, when the account exceeds \$10, until the \$350 fee is paid. The clerk will send a copy to the Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler, Texas 75702, Three Strikes List and to the Inmate Trust Fund, P.O. Box 629, Huntsville, Texas 77342-0629, Fax: 936-437-4793.

Signed on May 2, 2008, at Houston, Texas.


Lynn N. Hughes USDJ
United States District Judge