



**In The  
Court of Appeals  
Seventh District of Texas at Amarillo**

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No. 07-16-00317-CV

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**RICHARD L. BARROSO, APPELLANT**

**V.**

**NORVEL ARNOLD, ET AL., APPELLEES**

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On Appeal from the 69th District Court  
Hartley County, Texas  
Trial Court No. 4977H, Honorable Ron Enns, Presiding

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April 18, 2017

**MEMORANDUM OPINION**

Before QUINN, C.J., and CAMPBELL and PIRTLE, JJ.

Appellant, Richard Barroso, is an inmate. Proceeding as an indigent, he sued various employees of the Texas Department of Criminal Justice for confiscating his property, among other things. The employees moved to dismiss the proceeding under Chapter 14 of the Texas Civil Practice and Remedies Code. They argued that 1) Barroso failed to timely initiate suit after securing a final determination of his complaints via the prison's administrative grievance system and 2) his complaints were frivolous. The trial court granted the motion and dismissed the suit, with prejudice, without stating

the particular ground upon which it relied. Here, Barroso contends that the trial court erred in doing so. We affirm.

Section 14.005(b) of the Texas Civil Practice and Remedies Code states that a “court shall dismiss a claim if the inmate fails to file the claim before the 31st day after the date the inmate receives the written decision from the grievance system.” See TEX. CIV. PRAC. & REM. CODE ANN. § 14.005(b) (West 2017).<sup>1</sup> The provision is not discretionary. Furthermore, if the suit is untimely, the claims are barred and may be dismissed with prejudice. *Simmonds v. Harrison*, 387 S.W.3d 812, 814-15 (Tex. App.—Eastland 2012, no pet.); *Moreland v. Johnson*, 95 S.W.3d 392, 395 (Tex. App.—Houston [1st Dist.] 2002, no pet.).

Barroso initiated administrative grievances to address the claims underlying his eventual suit. The most recent grievance was denied via writing dated May 1, 2015.<sup>2</sup> Thirty-one days from the latter date would fall on or about June 1, 2015. His suit was not filed until January of 2016, though. Consequently, the trial court was obligated to dismiss the proceeding under § 14.005(b) of the Texas Civil Practice and Remedies Code. See *Amir-Sharif v. Zeller*, No. 07-10-0244-CV, 2011 Tex. App. LEXIS 1459, at \*2-3 (Tex. App.—Amarillo Feb. 28, 2011, pet. denied) (mem. op.).<sup>3</sup>

As for his contention that he knew not of the thirty-one day deadline to commence a civil action, we note that *pro se* litigants are presumed to know the law and

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<sup>1</sup> The Texas Government Code precludes an inmate from filing a claim until he has exhausted his remedies through the prison grievance system. TEX. GOV'T CODE ANN. § 501.008(d) (West 2012).

<sup>2</sup> The disposition actually references the date “May 1, 2014.” Yet, from the context of the document it is clear that the year was 2015, not 2014.

<sup>3</sup> Barroso repeatedly alludes to various physical conditions involving pain in his hands and arms as possible justification for his tardiness. Assuming *arguendo* that he actually suffered from such pain, he nevertheless failed to illustrate how they prevented him from acting timely.

have constructive knowledge of the requirements of § 14.005. See *Walp v. Hunter*, No. 10-03-00019-CV, 2004 Tex. App. LEXIS 2325, at \*5-6 (Tex. App.—Waco Mar. 10, 2004, no pet.) (mem. op). And, contrary to his suggestion, neither the State nor the prison system was obligated to educate him about the dictates of that statute. *Randle v. Wilson*, 26 S.W.3d 513, 516 n.2 (Tex. App.—Amarillo 2000, no pet.).

To the extent that appellant also suggests the deadline was satisfied because he attempted to sue in a federal district court and justice of the peace court, he cites us to no authority supporting his contention. And, precedent we encountered tends to negate his proposition. See *Walp*, 2004 Tex. App. LEXIS 2325, at \*6-7 (holding that an inmate filing suit in the wrong venue did not toll the deadline); see also *Payne v. Dretke*, No. 04-05-00876-CV, 2006 Tex. App. LEXIS 2906, at \*2-4 (Tex. App.—San Antonio Apr. 12, 2006, pet. denied) (mem. op.) (holding that the deadline was not satisfied where the inmate had filed but voluntarily dismissed a previous suit apparently involving the same complaints). Simply put, the suit he attempts to prosecute must be filed within thirty-one days of receiving the final, written administrative decision. If it is not, then it must be dismissed.

Because at least one ground supports the trial court's decision to dismiss with prejudice, we need not address Barroso's other issues. The order dismissing the suit with prejudice is affirmed.

Brian Quinn  
Chief Justice