

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-14103-E

RAYMOND TYRONE LEWIS,

Plaintiff-Appellant,

versus

WILLIAMS O. FARMER,
Sheriff of Sumter County, Florida,
DONALD KNEE,
Deputy Sheriff, Sumter County Sheriff's Office,
Drug Task Force Unit,
KEVIN DAVENPORT,
Deputy Sheriff, Sumter County Sheriff's Office,
Drug Task Force Unit,
DAWN SCHLEGEL,
Deputy Sheriff, Sumter County Sheriff's Office,
Drug Task Force Unit,
DYLAN GALBREATH,
Deputy Sheriff, Sumter County Sheriff's Office,
Drug Task Force Unit, et al.,

Defendants-Appellees.

**Appeal from the United States District Court
for the Middle District of Florida**

Before: MARCUS, WILLIAM PRYOR and NEWSOM, Circuit Judges.

BY THE COURT:

Raymond Lewis, in the district court, filed a notice of appeal and a motion to proceed on appeal *in forma pauperis*. The district court assessed the \$505.00 appellate filing fee, pursuant to the Prison Litigation Reform Act of 1995, 28 U.S.C. § 1915. The district court then certified that this appeal is frivolous and not taken in good faith.

Because the district court already has instituted a partial payment plan under 28 U.S.C. § 1915(a) and (b), the only remaining issue is whether the appeal is frivolous. *See* 28 U.S.C. § 1915(e)(2)(B)(i). This Court now finds that the appeal is frivolous, DENIES leave to proceed, and DISMISSES the appeal. Lewis's motion for appointment of counsel is DENIED AS MOOT.

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BY THE COURT:

Raymond Lewis has filed a motion for reconsideration, pursuant to 11th Cir. R. 27-2, of this Court's February 19, 2019, order denying leave to proceed and appointment of counsel in his

underlying 42 U.S.C. § 1983 civil rights action. Upon review, Lewis's motion for reconsideration is DENIED because he has offered no new evidence or arguments of merit to warrant relief.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

RAYMOND TYRONE LEWIS,

Plaintiff,

v.

Case No. 5:18-cv-192-Oc-10PRL

SHERIFF WILLIAM O. FARMER, et al.,

Defendants.

ORDER OF DISMISSAL

Plaintiff is a state prisoner proceeding *pro se* on an Amended Complaint pursuant to 42 U.S.C. § 1983. (Doc. 7.) He has been granted leave to proceed *in forma pauperis*. (Doc. 5.) The case is before the Court for screening pursuant to the Prison Litigation and Reform Act (PLRA). The PLRA directs the Court to dismiss a case if it is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief.¹ The Court must liberally construe a *pro se* Plaintiff's allegations.²

Plaintiff's Amended Complaint

Plaintiff sues the Sumter County Sheriff, five deputies, the State Attorney, and two Assistant United States Attorneys. (Doc. 7.) He alleges that in August

¹ See 28 U.S.C. §§ 1915A, 1915(e)(2).

² Haines v. Kerner, 404 U.S. 519 (1972); see also Miller v. Stanmore, 636 F.2d 986, 988 (5th Cir. 1981).

2009, deputies performed an illegal search and seizure at his home. He was arrested on September 24, 2009, and makes additional allegations regarding overcrowding and medical care at the Sumter County Detention Center. On August 2, 2010, Plaintiff's underlying criminal case was dismissed, and Plaintiff was released on August 5, 2010. Plaintiff seeks declaratory relief and monetary damages. (Doc. 7.)

Discussion

"[W]here Florida is the forum state, § 1983 plaintiffs have four years to file suit." Moore v. Fed. Bureau of Prisons, 553 Fed. Appx. 888, 890 (11th Cir. 2014) (citing Chappell v. Rich, 340 F.3d 1279, 1283 (11th Cir. 2003)). Plaintiff's claims relating to his arrest arose on September 24, 2009 (at the latest), and any claims relating to his conditions of confinement at the jail would have arisen on August 5, 2010 at the latest (the date he says he was released from jail). (Doc. 7.) Plaintiff executed his complaint in this case on April 18, 2018, well beyond the 4-year statute of limitations period. (Doc. 1.)

It is clear from the face of the Amended Complaint that Plaintiff's claims are barred the statute of limitations. (Doc. 7.) Dismissal is appropriate prior to service because "it appear[s] beyond a doubt from the complaint itself that [the prisoner] can prove no set of facts which would avoid a statute of limitations bar." Hughes

v. Lott, 350 F.3d 1157, 1163 (11th Cir. 2003) (citing Leal v. Ga. Dep't of Corrs., 254 F.3d 1276, 1280 (11th Cir. 2001)); see also Burt v. Martin, 193 Fed. Appx 829, 829 (11th Cir. 2006) (unpublished) (affirming district court's *sua sponte* dismissal of prisoner's complaint as time-barred prior to service).³

For the reasons stated herein, this case is **DISMISSED** pursuant to 28 U.S.C. §§ 1915A and 1915(e)(2)(B)(ii) for failure to state a claim. The Clerk is directed to enter judgment accordingly, terminate any pending motions, and close the file.

IT IS SO ORDERED.

DONE AND ORDERED at Ocala, Florida, this 6th day of September, 2018.

W. Russell Holguin
UNITED STATES DISTRICT JUDGE

³ Plaintiff previously filed a nearly identical suit in this Court, which was dismissed in 2015 at time-barred. Lewis v. Sumter Co. Sheriff's Office, Case No. 5:15-cv-246-Oc-10PRL.

**Additional material
from this filing is
available in the
Clerk's Office.**