

Christopher A. Klement

Fee, Smith & Sharp LLP

13155 Noel Road, Suite 1000

Dallas, TX 75240

(Counsel for eight Respondents: Compton, Stephens, Roane, Haverkamp, Norie, Shires, Jones, Carney)

No other counsel of record.

**/s/ Rodolfo Vela, Sr.**

**/s/ Rodolfo Vela, Jr.**

**Rodolfo Vela, Sr., Pro Se**

**Rodolfo Vela, Jr., Pro Se**

**December 10, 2025**

## **APPENDIX**

**Appendix A** –U.S.C of Appeal for the Fifth Circuit Opinion (Nov 26, 2024)

**Appendix B** – Memorandum Adopting the Report and Recommendation of United States Magistrate filed 03/28/24 ( Dkt 91

**Appendix E-** U.S.C. of Appeal for the Fifth Circuit Order Granted (Oct 9, 2024)

**Appendix F** – Respond To The Order (Dkt. 101, Mar 19, 2025) see filed ( Dkt 102 reply.

**Appendix K** – Blackfish Intelligence Report

**Appendix M** – Clerk's Rejection Letter (May 1, 2025)

**Appendix N** – Supplemental Affidavit (ADA Barriers)

**APPENDIX A: FIFTH CIRCUIT OPINION**

**(NOVEMBER 26, 2024).**

United States Court of Appeals  
for the Fifth Circuit

---

No. 24-40302

---

United States Court of Appeals  
Fifth Circuit

**FILED**

November 26, 2024

Lyle W. Cayce  
Clerk

RODOLFO VELA, SR.; RODOLFO VELA, JR.; ANNA VELA,

*Plaintiffs—Appellants,*

*versus*

MIKE COMPTON, *Sheriff*; TOM STEPHENS, *Deputy Sheriff*; S.  
NORIE, *Deputy Sheriff*; JUDD JONES, *Deputy Sheriff*; MARK  
TACKETT, STATE TROOPER; JONI L. McCLAIN, *Medical Doctor*;  
JOHN ROANE, JUSTICE OF THE PEACE; JANELLE HAVERKAMP,  
*District Attorney*; JOSEPH R. SHIRES, *Deputy Sheriff*; AARON  
CARNEY, *Chief Investigator for District Attorney*; JOHN WARREN,  
*District Attorney*; RAY SAPPINGTON, SHERRIFF; TERRY GILBERT,  
*Former Sheriff*; JEFFREY J. BARNARD, *Medical Doctor* CHIEF  
MEDICAL EXAMINER,

*Defendants—Appellees.*

---

Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 4:23-CV-145

---

Opinion Case details

Rodolfo Vela, Sr., Rodolfo Vela, Jr., and Anna Vela (collectively, "the Velas"), proceeding *pro se*, sued several individuals employed by Cooke County and a Texas State Trooper under 42 U.S.C. § 1983 on account of their failure to investigate and prosecute their relative's death as a homicide. Because the district court correctly dismissed their claims as time barred, we affirm.

I.

Arturo "Tippy" Vela died on July 5, 2001. The medical examiner performed an autopsy on July 6, 2001 and determined that Tippy died of a drug overdose. After a July 8, 2001 meeting with Cooke County Sheriff Mike Compton, the Velas were so dissatisfied with the investigation into Tippy's death that they commissioned a private autopsy. The private autopsy, which was performed on July 9, 2001 and finalized on August 17, 2001, found that Tippy's cause of death was homicide. On July 12, 2001, Rodolfo, Sr. and Rodolfo, Jr. were arrested by Texas State Trooper Mark Tackett for intoxication. The Velas assert that this arrest was part of a conspiracy between Tackett and the Cooke County Defendants to intimidate the Velas and prevent them from discovering issues with the investigation into Tippy's death. Because of the discrepancy between the two autopsies and these unsatisfactory interactions, the Velas decided that the defendants- various Cooke County employees involved in the investigation and Tackett- had conspired to cover up Tippy's true cause of death.

In the following years, the Velas attempted to pursue justice for Tippy in a variety of ways. At some point, although the Velas do not allege precisely when, they met with Cooke County District Attorney Janelle Haverkamp.<sup>1</sup>

3

<sup>1</sup> District Attorney Haverkamp became a Texas District Judge on January 1, 2005, so this meeting seemingly predated 2005.

**Opinion Case details**

On October 15, 2020, the Velas met with Aaron Carney, the Chief Investigator for the Cooke County District Attorney. Finally, on February 15, 2022, the Velas allegedly received "the Blackfish Intelligence report," which contained photographs and notes from Tippy's official autopsy, from Cooke County.

On February 9, 2023—over two decades after Tippy's death—the Velas filed the underlying § 1983 lawsuit against the Cooke County Defendants and Tackett. The Cooke County Defendants filed a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) arguing that the lawsuit was time barred and therefore failed to state a claim upon which relief can be granted. In the alternative, they argued that they were entitled to either qualified, judicial, or prosecutorial immunity. Tackett filed a motion to dismiss under Federal Rules of Civil Procedure 12(b)(2), 12(b)(5), and 12(b)(6) asserting lack of personal jurisdiction, insufficient service of process, and failure to state a claim upon which relief can be granted due to an expired statute of limitations.

A magistrate judge issued a report and recommendation advising that the Velas' claims against the Cooke County Defendants and Tackett be dismissed with prejudice as time barred. Specifically, the magistrate judge found that Texas's two-year statute of limitations applied. With respect to the Cooke County Defendants, the magistrate judge found that the statute of limitations began to run on either July 8, 2001—the date on which the Velas met with Sheriff Compton—or October 15, 2020—the date on which the Velas met with Chief Investigator Carney. With respect to Tackett, the magistrate judge found that the statute of limitations began to run on July 12, 2001—the <sup>4</sup> date on which Rodolfo, Sr. and Rodolfo, Jr. were arrested by Tackett. As all of these dates were more than two years before February 9, 2023, the magistrate judge concluded that the statute of limitations barred the Velas' claims.<sup>2</sup>

Opinion Case details

The Velas filed timely objections to the magistrate judge's report and recommendation. They argued that the statute of limitations did not bar their claims because they did not receive the Blackfish report, which they alleged made them aware of issues with the investigation into Tippy's death for the first time, until February 15, 2022. They further argued that the defendants' fraudulent concealment of the information in the Blackfish report tolled the statute of limitations until their receipt of the report. On the same day, the Velas also filed a motion requesting leave to amend their complaint.

The district court judge adopted the magistrate judge's report and recommendation in full. For multiple reasons, the district court judge did not believe the Velas' "narrative" that they were unaware of issues with the investigation into Tippy's death until their receipt of the Blackfish report on February 15, 2022. First, the Velas' objections were the first time they more than passively referenced the Blackfish report despite their prolific motion practice. Second, their objections were the first time they ever explicitly claimed they were not aware of issues with the investigation into Tippy's death until their receipt of the Blackfish report. Third, the Velas' conduct between Tippy's death and their filing of this lawsuit undermined their claim that they were unaware of issues with the investigation into Tippy's death until receiving the report. Indeed, the district court found it particularly \*5 compelling that the Velas' July 8, 2003 lawsuit mentioned that they had a private autopsy performed because they were concerned by things at the scene of Tippy's death and statements given by Tippy's close acquaintances. The district court judge therefore agreed with the magistrate judge that the Velas' claims were time barred and dismissed them with prejudice. Within this order and without explanation, the district court judge also denied the Velas' motion to amend their complaint.

The Velas timely appealed the district court's dismissal.

Opinion Case details

*Williams*, 979 F.3d 262, 265 n.1, 266 (5th Cir. 2020). We consider all "documents incorporated into the complaint by reference, and matters of which a court may take judicial notice." *Tellabs, Inc. v. Makor Issues & Rts., Ltd.*, 551 U.S. 308, 322 (2007). Rule 12(b)(6) dismissal under a statute of limitations is proper only when the complaint makes plain that the claim is time barred and raises no basis for tolling. *Jones v. Alcoa, Inc.*, 339 F.3d 359, 366 (5th Cir. 2003).

3. Because the statute of limitations issue is dispositive, we confine our review to the district court's Rule 12(b)(6) dismissal on statute of limitations grounds.

III.

On appeal, the Velas argue that their claims were timely. Specifically, they contend that their claims are not time barred because (1) they did not realize there were issues with the investigation into Tippy's death until they  
6 \*6 received the Blackfish report on February 15, 2022, and (2) the statute of limitations was tolled until their receipt of the Blackfish report on February 15, 2022 due to defendants' fraudulent concealment of it. They also seemingly argue that their claims should have been dismissed without prejudice rather than with prejudice. We disagree.

The forum state's personal-injury limitations period applies to § 1983 claims. *Smith v. Reg'l Transit Auth.*, 827 F.3d 412, 421 (5th Cir. 2016). In Texas, that is "two years after the day the cause of action accrues." TEX. CIV. PRAC. & REM. CODE § 16.003(a).

Federal law, not state law, governs when the claim accrues, however. *Walker v. Epps*, 550 F.3d 407, 414 (5th Cir. 2008) (citing *Wallace v. Kato*, 549 U.S. 384, 388 (2007)). Accrual occurs "when a plaintiff has 'a complete and present cause of action.'" *Ibid.* (quoting *Wallace*, 549 U.S. at 388). Thus, a statute of

Opinion Case details

the law of the forum state. *Walker*, 550 F.3d at 415. In Texas, “[a] defendant’s fraudulent concealment of wrongdoing may toll the statute of limitations after the cause of action accrues.” *BP Am. Prod. Co. v. Marshall*, 342 S.W.3d 59, 67 (Tex. 2011) (first citing *Kerlin v. Saucedo*, 263 S.W.3d 920, 925 (Tex. 2008); and then citing *HECI Expl. Co. v. Neel*, 982 S.W.2d 881, 886 (Tex. 1998)). Notably, however, “[f]raudulent concealment only tolls the running of limitations until the fraud is discovered or could have been discovered with reasonable diligence.” *Id.* (citing *Kerlin*, 263 S.W.3d at 925).

7 Here, the Velas clearly possessed sufficient information to know that they suffered an injury long before they received the Blackfish report on <sup>7</sup> February 15, 2022. See *Piotrowski*, 51 F.3d at 516. Although the Velas argue that the Blackfish report contained photographs and notes from Tippy’s official autopsy that alerted them to issues and to the defendants’ fraud, there is no indication that these photographs and notes imparted new information. The Velas’ activities in the years immediately following Tippy’s death also undercut any suggestion on their part that they did not believe there were issues with the investigation into Tippy’s death years before they received the report. At the earliest, they possessed sufficient information to believe there were issues with the investigation into Tippy’s death during the summer of 2001 after meeting with Sheriff Compton, getting arrested by Tackett, and receiving the private autopsy results. At the latest, they possessed sufficient information to believe there were issues with the investigation into Tippy’s death when they filed their lawsuit on July 8, 2003. Assuming that the latter date is the accrual date, the statute of limitations would have run on July 8, 2005—over seventeen years before the Velas filed the underlying lawsuit.<sup>4</sup> These events—and the knowledge by the Velas they demonstrate—also negate the Velas’ claim that the defendants’ alleged fraudulent concealment of the Blackfish report tolled the statute of limitations. See *Marshall*, 342 S.W.3d at 67. The Velas’ claims are therefore barred by the statute of limitations and were properly dismissed.

Opinion Case details

meetings. In any case, the Velas' claims would still be time barred if they did not accrue until the Velas' October 15, 2020 meeting with Chief Investigator Carney.

8 To the extent that the Velas challenge the district court's decision to dismiss their claims with prejudice and deny their motion to further amend \*8 their complaint, we find that the district court did not abuse its discretion in doing so as amending the complaint would have been futile. *See Legate v. Livingston*, 822 F.3d 207, 211 (5th Cir. 2016) (stating that "a district court need not grant a futile motion to amend" and that "[f]utility is determined under Rule 12(b)(6) standards"); *Whitaker v. McDonald*, No. 20-40569, 2022 WL 68972, at \*2 (5th Cir. Jan. 6, 2022) (holding that the district court did not abuse its discretion in denying a plaintiff leave to amend his complaint where doing so would have been futile due to an expired statute of limitations).

Accordingly, the district court correctly dismissed the Velas' claims with prejudice and the judgment is, in all respects, AFFIRMED.

[\*] This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

[About us](#)

[Jobs](#)

[News](#)

[Twitter](#)

[Facebook](#)

Opinion Case details

Contact sales

Cookie Settings

Do Not Sell or Share My Personal Information/Limit the Use of My Sensitive Personal Information

Privacy

Terms

© 2024 Casetext Inc.

Casetext, Inc. and Casetext are not a law firm and do not provide legal advice.

**B.**

**United States District Court**  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

RODOLFO VELA, SR., ET AL.

§  
§  
§  
§  
§

CIVIL ACTION NO. 4:23-CV-145

(JUDGE MAZZANT/JUDGE DURRETT)

v.

MIKE COMPTON, ET AL.

**MEMORANDUM ADOPTING THE REPORT AND  
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the Report and Recommendation (“Report”) of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On March 14, 2024, the Magistrate Judge entered a Report (Dkt. #86) recommending that Defendants Aaron Carney, Mike Compton, Terry Gilbert, Janelle Haverkamp, Judd Jones, S. Norie, John Roane, Ray Sappington, Joseph R. Shires, Tom Stephens, and John Warren’s Second Motion to Dismiss under Rule 12(b)(6) (Dkt. #50) be granted and that Plaintiffs’ claims against those defendants be dismissed with prejudice. The Report further recommended that Defendant Mark Tackett’s Motion to Dismiss Pursuant to Rules 12(b)(2), 12(b)(5), and 12(b)(6) (Dkt. #38) be granted and that Plaintiffs claims against Mark Tackett be dismissed with prejudice. The Report further recommended that Plaintiffs’ claims against Defendants Joni L. McClain and Jeffrey J. Barnard be dismissed without prejudice. The Report finally recommended that the remaining forty-two pending motions be denied as moot.

Plaintiffs filed timely objections to the Report (Dkt. #88; Dkt. #89). Plaintiffs allege that the statute of limitations was tolled until February 15, 2022, when Plaintiffs allegedly received “the Blackfish Intelligence report.” (Dkt. #88 at p. 1). However, Plaintiffs have only mentioned the Blackfish report in passing throughout their extensive motion practice, (*see, e.g.*, Dkt. #39 at p. 2),

but never expressly alleged, until they filed objections to the Report, that Plaintiffs' receipt of the Blackfish report in 2022 was the first time Plaintiffs were aware of potential issues with the investigation into Tippy's death. Moreover, Plaintiffs' conduct between July 5, 2001, the date of Tippy's death, and February 9, 2023, when Plaintiffs filed their Complaint, indicates that Plaintiffs had "sufficient information to know that [they had] been injured" long before the statute of limitations had passed. *See Matter of Hoffman*, 955 F.3d 440, 444 (5th Cir. 2020). Notably, Plaintiffs filed a lawsuit on July 8, 2003, in the 235th District Court of Cooke County, Texas for wrongful death and premises liability in connection with Tippy's death (Dkt. #31). In that Petition, Plaintiffs explain that "[t]he family of Arturo Vela became alarmed by circumstances at the scene of the death as well as by statements made by close acquaintances of the decedent, and had a second autopsy performed." (Dkt. #31 at p. 2). As such, the Court declines to adopt Plaintiffs' narrative that they were not aware of the alleged conspiracy surrounding Tippy's death until February 2022.


Accordingly, having received the Report of the Magistrate Judge, considered Plaintiffs' objections (Dkt. #88; Dkt. #89), and having conducted a de novo review, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court.

It is therefore **ORDERED** that Defendants Aaron Carney, Mike Compton, Terry Gilbert, Janelle Haverkamp, Judd Jones, S. Norie, John Roane, Ray Sappington, Joseph R. Shires, Tom Stephens, and John Warren's Second Motion to Dismiss under Rule 12(b)(6) (Dkt. #50) is **GRANTED**. It is further **ORDERED** that Defendant Mark Tackett's Motion to Dismiss Pursuant to Rules 12(b)(2), 12(b)(5), and 12(b)(6) (Dkt. #38) is **GRANTED**. It is further **ORDERED** that Plaintiffs' claims against Defendants Aaron Carney, Mike Compton, Terry

Gilbert, Janelle Haverkamp, Judd Jones, S. Norie, John Roane, Ray Sappington, Joseph R. Shires, Tom Stephens, John Warren, and Mark Tackett are **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that Plaintiffs' claims against Defendants Joni L. McClain and Jeffrey J. Barnard are **DISMISSED WITHOUT PREJUDICE**. It is further **ORDERED** that Plaintiff's Motion for Leave to Perfect Service and Amend Complaint (Dkt. #90) is **DENIED**. It is finally **ORDERED** that the remaining forty-two pending motions on the docket are **DENIED as moot**.

All relief not previously granted is **DENIED**.

**SIGNED** this 29th day of March, 2024.

  
AMOS L. MAZZANT  
UNITED STATES DISTRICT JUDGE

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