

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION**

RONALD L. WELLS, SR.,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 11-1029
)	
MARK SPENCER, MICHELLE CLARK,)	
AUGUSTIN TWAGLIMANA, AND)	
PAULA RICH.)	
)	
Defendants.)	

OPINION

This cause is before the Court for consideration of the Defendants’ Renewed Motion for Summary Judgment [d/e 111]. Plaintiff Ronald L. Wells, Sr. (“Plaintiff”), proceeding *pro se*, filed his lawsuit in accordance with 42 U.S.C. § 1983 alleging various violations of his constitutional rights. Plaintiff’s claims consist of four counts: (1) denial of access to the courts; (2) a state law claim for intentional infliction of emotional distress; (3) failure to properly train and supervise; and (4) conspiracy. Defendants move for summary judgment. Summary judgment must be GRANTED for all the Defendants for the reasons discussed below.

SUMMARY JUDGMENT STANDARD

"The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). A movant may demonstrate the absence of a material dispute through specific cites to admissible evidence, or by showing that the nonmovant “cannot produce admissible evidence to support the [material] fact.” Fed. R. Civ. P. 56(c)(B). If the movant clears this hurdle, the nonmovant may not simply rest on his or her allegations in the complaint, but instead

must point to admissible evidence in the record to show that a genuine dispute exists. *Id.*; *Harvey v. Town of Merrillville*, 649 F.3d 526, 529 (7th Cir. 2011). At the summary judgment stage, evidence is viewed in the light most favorable to the nonmovant, with material factual disputes resolved in the nonmovant's favor. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A genuine dispute of material fact exists when a reasonable juror could find for the nonmovant. *Id.*

FACTS

Plaintiff Ronald Wells, Sr. (“Plaintiff”) is an inmate with the Illinois Department of Corrections, currently incarcerated at Stateville Correctional Center. [d/e #112]. Plaintiff was incarcerated at Pontiac Correctional Center at all times relevant to the instant claims.

In March 2003, Plaintiff had a case pending before the Tenth Judicial Circuit Court, Peoria County, Illinois. The case pending in the Tenth Judicial Circuit was directly related to Plaintiff’s criminal case. Also in March 2003, Plaintiff had a pending United States District Court, Central District of Illinois case, case number 02-1254. Plaintiff’s case in the United States District Court alleged that detectives in the Peoria Police Department illegally obtained evidence in their investigation of Plaintiff. Plaintiff’s case in the United States District Court was dismissed on August 29, 2003.

On October 2, 2003, and February 28, 2004, Plaintiff filed grievances related to the law library being closed. Plaintiff appealed his grievances to the institutional grievance officer on October 6, 2003, January 24, 2004, and May 9, 2004. Plaintiff attempted to have his Post-Conviction Motion, Memorandum of Law, and Proof of Service notarized on November 24, 2004.

On December 15, 2005, the Peoria County Circuit Court ordered Plaintiff to file a response to the defendants' Motion to Dismiss. On January 27, 2005, Plaintiff's case was dismissed by the Peoria County Circuit Court. On February 9, 2005, Plaintiff mailed his Notice of Appeal of the Peoria County Circuit Court's decision.

Plaintiff filed an institutional grievance related to Defendants Paula Rich ("Rich") and Mark Spencer ("Spencer") on April 11, 2006. Also on April 11, 2006, the Third District of the Illinois Appellate Court dismissed Plaintiff's appeal.

On August 13, 2007, Plaintiff's Post Conviction Petition was dismissed by the Peoria County Circuit Court. Plaintiff mailed a Motion to the Circuit Clerk and the State's Attorney's Office on September 12, 2007.

On June 17, 2008, the Peoria County Circuit Clerk denied Plaintiff's Motion to Reconsider. Plaintiff filed his Notice to Appeal on July 2, 2008, which was determined to be untimely.

On October 2, 2009, Defendant Clark responded to an inquiry from Charles Scheidel. On October 8, 2009, and October 19, 2009, Defendant Michelle Clark ("Clark") sent memoranda to Plaintiff.

Plaintiff filed this Complaint January 26, 2011. At all times relevant to this cause of action, Defendants were employed by the Illinois Department of Corrections at Pontiac.

ANALYSIS

I. Plaintiff's Claims for Actions Arising Prior to January 26, 2009, are barred by the Statute of Limitations

Defendants argue that they are entitled to summary judgment because Plaintiff's claims are barred by the statute of limitations. Defendants state that 42 U.S.C. § 1983 actions arising in Illinois are governed by Illinois' two-year statute of limitations for personal injury claims. *Kelly*

v. City of Chicago, 4 F.3d 509, 511 (7th Cir. 1993). Federal law governs the accrual of claims. *Wilson v. Giesen*, 956 F.2d 738, 740 (7th Cir. 1992). Generally, a claim accrues when the plaintiff knows, or has a reason to know, of the injury giving rise to the cause of action. *Id.* Civil rights claims, therefore, accrue when the plaintiff knows or should have known that his or her constitutional rights have been violated. *Id.* In applying these state limitations statutes, federal courts also follow the tolling laws of the state where the injury occurred. *Hardin v. Straub*, 490 U.S. 536, 543 (1989). A federal court relying on the Illinois Statute of Limitations in a § 1983 case must toll the limitations period while a prisoner completes the administrative grievance process. *Johnson v. Rivera*, 272 F.3d 519, 522 (7th Cir. 2001). Failure to comply with mandatory grievance procedures makes tolling of the statute of limitations unavailable. *Santiago v. Snyder*, 211 Fed. Appx. 478, 480 (7th Cir. 2007) (citing *Pozo v. McCaughtry*, 286 F.3d 1022, 1023 (7th Cir. 2002)).

Plaintiff filed his Complaint on January 26, 2011. Plaintiff claims that he was denied access to the Courts. He claims that, but for the actions of Defendants, his cases in the Circuit Court and the Appellate Court would not have been dismissed. [d/e #1, paragraph 80]. Plaintiff had at least two cases in the Peoria County Circuit Court. The first case was dismissed on January 27, 2005. On April 6, 2005, the Illinois Appellate Court denied his appeal. This Court finds that any allegations against Defendants related to this lawsuit and appeal are barred by the statute of limitations.

Plaintiff had a second case before the Peoria County Circuit Court. It appears that his second case was related to his post-conviction appeal. On August 13, 2007, the Peoria County Circuit Court dismissed his post-conviction appeal. Plaintiff's Motion for Reconsideration was denied by that same Court on June 17, 2008. Additionally, Plaintiff's July 2, 2008, Notice of

Appeal was deemed untimely by the Third District Appellate Court. Therefore, the Court finds that any allegations against Defendants related to this second case are barred by the two-year statute of limitations.

II. Plaintiff's Claims Regarding his Post-Conviction Appeals are Barred by *Heck v. Humphrey*, 512 U.S. 477 (1994)

To proceed under 42 U.S.C. § 1983 for relief from harm caused by alleged violations of constitutional rights leading to wrongful conviction or imprisonment, a plaintiff must first show that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such a determination, or called into question by a federal court's issuance of a writ of habeas corpus. *Heck*, 512 U.S. 477. In a case such as *Heck*, where the prisoner is complaining about being hindered in his efforts to get his conviction set aside, the hindrance is of no consequence if the conviction was valid, and he cannot get damages until the conviction is invalidated. *Hoard v. Reddy*, 175 F.3d 531, 534 (7th Cir. 1999). To establish a deprivation of access to the courts, a prisoner must show that unjustified acts or conditions "hindered his efforts to pursue a legal claim." *Nance v. Vieregge*, 147 F.3d 589 (7th Cir. 1998) (quoting *Lewis v. Casey*, 518 U.S. 343, 351 (1996)). "If the injury in question is losing the underlying case, then *Heck v. Humphrey*, 512 U.S. 477 (1994), comes into play." *Heck* holds that a damages remedy that necessarily implies the invalidity of a criminal conviction is impermissible while that conviction stands. *Nance*, 147 F.3d at 591.

Plaintiff makes reference to multiple lawsuits in his Complaint. The first lawsuit was one filed in the Peoria County Circuit Court. (ECF No. 112 at 2, Undisputed Material Fact #3). This case was directly related to Plaintiff's criminal case. (ECF No. 112 at 2, Undisputed Material Fact #4). The second case was against the Peoria Police Department, which alleged that detectives illegally obtained evidence in their investigation of Plaintiff's underlying criminal

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