

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CHESTER L. WOULARD, :
 :
 Plaintiff, :
 :
 v. : Civil Action No. 01-367-JJF
 :
 RAPHAEL WILLIAMS, et al., :
 :
 Defendants. :

Chester L. Woulard, Pro Se, Memphis, Tennessee.

Gregory E. Smith, Esquire, DEPARTMENT OF JUSTICE, Wilmington,
Delaware.
Attorney for Defendants.

MEMORANDUM OPINION

October 24, 2002
Wilmington, Delaware.

FARNAN, District Judge.

This Memorandum Opinion provides the Court's reasons in support of its September 30, 2002 Order (D.I. 30) which granted Defendant's Motion to Dismiss (D.I. 17).

Plaintiff, Chester L. Woulard, filed this action alleging that, in his parole hearing conducted on June 14, 1994, the parole commission did not give him proper notice that he would receive a penalty for his parole violation. (D.I. 2). Plaintiff further contends that he did not receive official notice until 2000 that he would have to re-serve the sentence proscribed to him in the 1994 parole hearing. (D.I. 25 at 2). Plaintiff claims that these actions violated his Fourteenth Amendment Due Process rights as well as 42 U.S.C. § 1983 ("Section 1983"). (D.I. 25 at 7).

Defendants, Raphael Williams, Edith Washington and Marlene Lichtenstader ("State Defendants") filed a Motion to Dismiss supported by a Memorandum of Points and Authorities (D.I. 18). Plaintiff filed a Response (D.I. 25) opposing State Defendants' Motion.

State Defendants contend that Plaintiff's Complaint (D.I. 2) should be dismissed because: 1) Plaintiff's Section 1983 claims against State Defendants are barred by the applicable statute of limitations; and 2) State Defendants cannot be liable for the allegations made by the Plaintiff because State Defendants had no

personal involvement.

Plaintiff responds to the State Defendants' statute of limitations defense by arguing that he had no or insufficient notice of his parole revocation until 2000, at which time the statute of limitations began to run, and thus his claim was timely. (D.I. 25 at 2).

Plaintiff responds to the "lack of involvement" defense by arguing that State Defendants are proper Defendants because they acted within the sphere of their employment and knew that their actions would have violated Plaintiff's rights. See Wood v. Strickland, 402 U.S. 308, 322 (1975). Plaintiff further argues that since the parole violation report contained Marlene Lichtenstader's name and she is the current parole chairperson, she is a proper Defendant in this case. (D.I. 25 at 4).

Discussion

Statute of Limitations

The critical date in this case is June 14, 1994- the day the State Parole Board took action to conduct a parole revocation hearing against the Plaintiff. (D.I. 2). State Defendants contend that the latest date for the Plaintiff to have filed his claim, pursuant to the two-year limitations period provided by state and federal law, was June 14, 1996. In support of a two-year statute of limitations, State Defendants cite Carr v. Dewey Beach, 730 F. Supp. 591 (D. Del. 1990). The Court agrees that

two years is the appropriate limitations period and that the Plaintiff was required to file any claim against the June 14, 1994 hearing action no later than June 14, 1996. Plaintiff failed to file within the appropriate period and no grounds have been alleged to extend the period. Plaintiff's argument concerning notice is without merit in the circumstances presented here. For these reasons, State Defendants' Motion to Dismiss (D.I. 17) has been granted.

Lack of Personal Involvement

To establish a claim under Section 1983, Plaintiff must allege some evidence of personal involvement, knowing acquiescence or participation of Defendants. See Pennsylvania v. Porter, 659 F.2d 306, 336 (3d Cir. 1981) cert. denied, 458 U.S. 1121 (1982); see also Rizzo v. Goode, 423 U.S. 362, 375 (1976); Gay v. Petsock, 917 F.2d 768, 771 (3d Cir. 1990); Rode v. Dellarciprete, 845 F.2d 1195, 1207 (3d Cir. 1988). Here, since the Plaintiff makes broad allegations in his Complaint and does not clearly allege any wrong-doing on behalf of the State Defendants, Plaintiff does not meet the requisite level of specificity needed to sustain an action against the State Defendants under Section 1983. Thus, the Court concludes that Plaintiff's claim fails for its lack of specificity.

Conclusion

In sum, State Defendants' Motion to Dismiss (D.I. 17) has

been granted by Order of this Court on September 30, 2002 (D.I. 30), for the reasons discussed.