

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

Dewhite D. Johnson v. Matthew Burns

Case No. 25-C-1401 · No. 25-C-1401 · Decided January 26, 2026

SUMMARY

The United States District Court for the Eastern District of Wisconsin granted Defendant Matthew Burns’s motion to dismiss a 42 U.S.C. § 1983 failure-to-protect claim. The court held that the claim, arising from a March 11, 2022 incident and filed on September 12, 2025, was barred by Wisconsin’s three-year statute of limitations and that incarceration did not toll the limitations period.

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	William C. Griesbach
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	January 26, 2026
DOCKET	25-C-1401
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant moved to dismiss a pro se 42 U.S.C. § 1983 failure-to-protect claim as barred by Wisconsin's statute of limitations.
STANDARD OF REVIEW	The court evaluated the sufficiency of the limitations defense on Defendant's motion to dismiss and determined from the dates alleged in the amended complaint that the action was time-barred.
PRECEDENTIAL VALUE	unpublished district court decision
PARTIES	Dewhite D. Johnson v. Matthew Burns

TOPICS

- statute of limitations
- motions to dismiss
- section 1983
- prisoners rights
- civil procedure

PRACTICE AREAS

- civil rights
- prisoner litigation
- statute of limitations
- civil procedure

QUESTIONS PRESENTED

1. Whether Johnson's § 1983 failure-to-protect claim was barred by Wisconsin's three-year statute of limitations.
2. Whether Wisconsin law tolls the statute of limitations during a prisoner's incarceration.

HOLDINGS

1. Johnson's § 1983 claim was barred because it accrued on March 11, 2022, and he did not file suit until September 12, 2025, more than three years later.
2. Wisconsin law does not toll the statute of limitations during a prisoner's incarceration.

KEY QUOTATIONS

“In Wisconsin, there is no tolling of the statute of limitations period during a prisoner’s incarceration.”

“Because Plaintiff did not file this lawsuit until September 12, 2025, it is time-barred under Wisconsin’s three-year statute of limitations.”

FACTUAL BACKGROUND

Johnson alleged that the incident underlying his § 1983 failure-to-protect claim occurred on March 11, 2022. He filed the lawsuit on September 12, 2025, more than three years after the alleged incident. Johnson argued that Wisconsin law tolled the limitations period during his incarceration.

PROCEDURAL HISTORY

The court screened Plaintiff's amended complaint on November 4, 2025, and allowed him to proceed against Lieutenant Matthew Burns on a failure-to-protect claim. Defendant moved to dismiss on December 22, 2025, asserting that the claim accrued more than three years before the action was filed. The court granted the motion, dismissed the case, and directed the Clerk to enter judgment.

DISPOSITION

dismissed

CASES CITED

- Huber v. Anderson, 909 F.3d 201, 207 (7th Cir. 2018)
- Wallace v. Kato, 549 U.S. 384, 387 (2007)
- D'Acquisto v. Love, No. 20-C-1034, 2020 WL 5982895, at *1 (E.D. Wis. Oct. 8, 2020)
- Maddox v. Berge, 473 F. Supp. 2d 888, 894 (W.D. Wis. 2007)