

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

C. William Helm v. Allison Ratterman

No. 17-6367, United States Court of Appeals for the Sixth Circuit (June 18, 2019)

SUMMARY

The Sixth Circuit affirmed the dismissal of Dr. Helm's 42 U.S.C. § 1983 due process claims as time-barred under Kentucky's one-year statute of limitations, holding that he knew or should have known of his injury by November 2015. The court reversed the dismissal of his fraud-by-omission claim, ruling that the district court erred in requiring inducement to act rather than recognizing that inducement to refrain from acting satisfies the element under Kentucky law. The case was remanded for the district court to determine whether a duty to disclose existed under alternative theories, and the remaining state-law claims were reinstated.

CASE DETAILS

|                       |                                                                                        |
|-----------------------|----------------------------------------------------------------------------------------|
| COURT                 | United States Court of Appeals for the Sixth Circuit                                   |
| WRITING FOR THE COURT | Helene N. White; Bernice B. Donald; Joan L. Larsen                                     |
| JURISDICTION          | Federal                                                                                |
| DECIDED               | June 18, 2019                                                                          |
| DOCKET                | 17-6367                                                                                |
| DISPOSITION           | reversed_and_remanded                                                                  |
| PROCEDURAL POSTURE    | Appeal from the United States District Court for the Western District of Kentucky.     |
| STANDARD OF REVIEW    | De novo                                                                                |
| PRECEDENTIAL VALUE    | unpublished                                                                            |
| PARTIES               | C. William Helm v. Allison Ratterman, Angela Koshewa, Pamela Feldhoff, Eleanor Lederer |

TOPICS

- civil procedure
- statute of limitations
- fraud
- summary judgment
- motions to dismiss
- due process
- civil rights
- appellate procedure

QUESTIONS PRESENTED

1. Whether the district court correctly dismissed the § 1983 claims as time-barred.
2. Whether the district court correctly dismissed the fraud-by-omission claim for failure to plead inducement to act.
3. Whether the district court should have considered the remaining state-law claims.

#### **HOLDINGS**

1. The § 1983 claims are time-barred because Helm knew or should have known of his claim by November 19, 2015, more than a year before filing suit.
2. The district court erred in dismissing the fraud-by-omission claim because the inducement element can be satisfied by a showing that the plaintiff was induced to refrain from acting, not only to act.
3. Because the fraud-by-omission claim may be viable, the remaining state-law claims should be reconsidered on remand.

#### **KEY QUOTATIONS**

*“Under these circumstances, we agree with the district court that Helm was aware or should have been aware of his § 1983 claims at the latest on November 19, 2015.” (at 13)*

*“Thus, the district court erred in dismissing Helm’s amended complaint for failure to plead that he was induced to act.” (at 18)*

*“The ORI policy, which is derived in large part from federal regulations promulgated by the United States Public Health Service (PHS) for investigating research misconduct, is mandatory where PHS funds are involved.” (at 4)*

#### **FACTUAL BACKGROUND**

Dr. C. William Helm, a former professor at the University of Louisville School of Medicine, was accused of plagiarism by a colleague in 2009. The University's Office of Research Integrity (ORI) investigated the allegation but treated it as an 'internal' case not involving federal funds, which meant the full ORI policy did not apply. Helm was exonerated in 2011. He later learned through discovery in a state-court action that the allegation likely involved federal funds and that the ORI policy should have been applied. He filed this action alleging that the Defendants deprived him of due process by misclassifying the case and by not providing the procedural protections of the ORI policy, and also brought state-law claims. The district court dismissed the § 1983 claims as time-barred and the state-law claims for failure to state a claim.

#### **PROCEDURAL HISTORY**

Helm previously filed a federal action (Helm I) in 2014, which was dismissed. He filed this action on December 6, 2016, alleging § 1983 due process claims and state-law claims against university officials. The district court dismissed the § 1983 claims as time-barred and later dismissed the state-law claims. Helm appealed.

#### **DISPOSITION**

reversed\_and\_remanded

## REMAND INSTRUCTIONS

Remand for further proceedings on the fraud-by-omission claim and the remaining state-law claims, consistent with the opinion.

## CASES CITED

- Helm v. Eells, 642 F. App'x 558 (6th Cir. 2016)
- Johnson v. Memphis Light Gas & Water Div., 777 F.3d 838 (6th Cir. 2015)
- Roberson v. Tennessee, 399 F.3d 792 (6th Cir. 2005)
- Wallace v. Kato, 549 U.S. 384 (2007)
- Hardin v. Straub, 490 U.S. 536 (1989)
- Giddings & Lewis, Inc. v. Industrial Risk Insurers, 348 S.W.3d 729 (Ky. 2011)
- Republic Bank & Trust Co. v. Bear Stearns & Co., 683 F.3d 239 (6th Cir. 2012)
- United Parcel Serv. Co. v. Rickert, 996 S.W.2d 464 (Ky. 1999)
- Bank of America, N.A. v. Corporex Companies, LLC, 99 F. Supp. 3d 708 (E.D. Ky. 2015)
- Rivermont Inn, Inc. v. Bass Hotels Resorts, Inc., 113 S.W.3d 636 (Ky. App. 2003)
- Steelvest, Inc. v. Scansteel Serv. Ctr., Inc., 807 S.W.2d 476 (Ky. 1991)
- Combs v. Int'l Ins. Co., 354 F.3d 568 (6th Cir. 2004)
- Emberton v. GMRI, Inc., 299 S.W.3d 565 (Ky. 2009)
- Munday v. Mayfair Diagnostic Lab., Ky., 831 S.W.2d 912 (Ky. 1992)