

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
PENNSYLVANIA

Dontay Mack v. OFC Sean Burnett, et al.

Mack · No. No. 25-4224 · Decided January 9, 2026

SUMMARY

The United States District Court for the Eastern District of Pennsylvania dismissed Dontay Mack’s amended 42 U.S.C. § 1983 complaint concerning an alleged warrantless search of a safe and deprivation of property. The court held that the claims were barred by Pennsylvania’s two-year statute of limitations and denied leave to amend because the untimeliness could not be cured.

CASE DETAILS

COURT	United States District Court for the Eastern District of Pennsylvania
WRITING FOR THE COURT	John F. Murphy, J.
JURISDICTION	United States District Court for the Eastern District of Pennsylvania
DECIDED	January 9, 2026
DOCKET	No. 25-4224
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pro se plaintiff filed an amended civil-rights complaint under 42 U.S.C. § 1983 after the court dismissed his original complaint during in forma pauperis screening and granted leave to amend. The court screened the amended complaint under 28 U.S.C. § 1915(e)(2)(B)(ii) and dismissed it as barred by the statute of limitations without granting further leave to amend.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915(e)(2)(B)(ii), the court applies the same standard as a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6): accepting well-pleaded facts as true, drawing reasonable inferences in the plaintiff's favor, and determining whether the complaint states a plausible claim. A statute-of-limitations defense may be resolved at screening when it is apparent on the face of the complaint and requires no factual development.
PRECEDENTIAL VALUE	Nonprecedential district-court memorandum opinion

PARTIES

Dontay Mack v. OFC Sean Burnett, Sergeant Benjamin Baynard,
Sergeant Francis Lowry

TOPICS

section 1983 statute of limitations motions to dismiss civil procedure police misconduct

PRACTICE AREAS

civil rights constitutional law civil procedure prisoner civil rights

QUESTIONS PRESENTED

1. Whether Mack's § 1983 claims arising from the alleged search, seizure, and deprivation of property were barred by Pennsylvania's two-year statute of limitations.
2. Whether the claims accrued when the search, seizure, and alleged deprivation occurred or instead when Mack's property was returned through property-return proceedings.
3. Whether Mack should be granted further leave to amend.

HOLDINGS

1. Mack's Fourth Amendment search-and-seizure, Fifth Amendment property-deprivation, and Fourteenth Amendment due-process claims were untimely because § 1983 claims in Pennsylvania are subject to a two-year limitations period and the alleged conduct occurred in December 2020, while the action was not filed until July 31, 2025.
2. Even assuming the claims accrued when Mack's property was returned at the conclusion of the return-of-property proceedings on April 28, 2022, the claims were still untimely because Mack did not file suit until July 31, 2025.
3. Further leave to amend was denied because the untimeliness of Mack's claims could not be cured by amendment.

KEY QUOTATIONS

“When screening a complaint under § 1915, a district court may sua sponte dismiss the complaint as untimely under the statute of limitations where the defense is obvious from the complaint and no development of the factual record is required.” (Discussion section)

“Mr. Mack’s claims accrued when he was detained, searched, and had his personal belongings seized.”
(Discussion section)

FACTUAL BACKGROUND

Mack alleged that he was arrested in Philadelphia on December 31, 2020, and that personal belongings, including a combination-locked safe, were taken from his car to a police detective division. He alleged that Burnett, Baynard, and Lowry cut the hinge from the safe after he refused to provide its combination, searched it

without a warrant, damaged it, and took jewelry, money, and paperwork. Mack discovered the alleged damage and missing property when his belongings were returned through property-return proceedings.

PROCEDURAL HISTORY

Mack initially sued the Philadelphia Police Department and three officers, alleging an illegal search and seizure and theft of property. The court dismissed the original complaint for insufficient factual allegations, dismissed claims against the Police Department with prejudice because it was not a proper defendant, and permitted amendment. Mack then alleged that officers searched and damaged a safe and took property following his December 31, 2020 arrest. The court dismissed the amended complaint as untimely and denied further leave to amend because the defect could not be cured.

DISPOSITION

dismissed

CASES CITED

- Mack v. Phila. Police Dep't, No. 25-4224, 2025 WL 2825587, at *3 (E.D. Pa. Oct. 2, 2025)
- Tourscher v. McCullough, 184 F.3d 236, 240 (3d Cir. 1999)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Shorter v. United States, 12 F.4th 366, 374 (3d Cir. 2021)
- Fisher v. Hollingsworth, 115 F.4th 197 (3d Cir. 2024)
- Wisniewski v. Fisher, 857 F.3d 152, 157 (3d Cir. 2017)
- Vogt v. Wetzel, 8 F.4th 182, 185 (3d Cir. 2021)
- Mala v. Crown Bay Marina, Inc., 704 F.3d 239, 244-45 (3d Cir. 2013)
- Whitenight v. Commw. of Pa. State Police, 674 F. App'x 142, 144 (3d Cir. 2017) (per curiam)
- Wallace v. Kato, 549 U.S. 384, 387 (2007)
- Dique v. N.J. State Police, 603 F.3d 181, 185 (3d Cir. 2010)
- Sameric Corp. of Del. v. City of Phila., 142 F.3d 582, 599 (3d Cir. 1998)
- Nguyen v. Pennsylvania, 906 F.3d 271, 273 (3d Cir. 2018)
- Ojo v. Luong, 709 F. App'x 113, 116 (3d Cir. 2017) (per curiam)
- Wilson v. City of Newark, No. 06-5219, 2007 WL 1135301, at *2 (D.N.J. Apr. 16, 2007)
- Lloyd v. Ocean Twp. Counsel, 857 F. App'x 61, 64 (3d Cir. 2021) (per curiam)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA DONTAY MACK,: CIVIL ACTION Plaintiff,: v.: NO. 25-4224 OFC SEAN BURNETT, et al.,: Defendants.: MEMORANDUM MURPHY, J. January 9, 2026 Dontay Mack filed this pro se action asserting civil rights claims pursuant to 42 U.S.C. § 1983 based on an

alleged illegal search and seizure. Mr. Mack was previously granted leave to proceed in forma pauperis.

Upon screening under 28 U.S.C. § 1915(e)(2), the Court dismissed his original Complaint asserted against the Philadelphia Police Department and three of its police officers and permitted him to file an amended complaint. See *Mack v. Phila. Police Dep't*, No. 25-4224, 2025 WL 2825587, at *3 (E.D. Pa. Oct. 2, 2025). Mr. Mack returned with the pending Amended Complaint.

For the following reasons, the Court will dismiss Mr. Mack's Amended Complaint. I. FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY¹ In his initial Complaint, Mr. Mack alleged that defendants Detective Sean Burnett, Sergeant Benjamin Baynard, and Sergeant Francis Lowry conducted an "illegal search and seizure" and stole his property while he was in Philadelphia Police Department custody.

(DI 2 at 5.) The Court dismissed the Complaint, concluding that Mr. Mack had failed to provide any 1 Unless otherwise stated, the factual allegations set forth in this Memorandum are taken from Mr. Mack's Amended Complaint. (DI 9.)

The Court adopts the sequential pagination assigned to the Amended Complaint by the CM/ECF docketing system. timeframe or factual context for the alleged search and seizure involving the defendants. See *Mack*, 2025 WL 2825587, at *3.

The Court also dismissed with prejudice all claims against the Philadelphia Police Department, as it was not a proper defendant. *Id.* at 2. Mr. Mack returned with an Amended Complaint, again naming Burnett, Baynard, and Lowry as defendants. (DI 9 at 6.) Mr. Mack alleges that he was arrested on December 31, 2020 in Philadelphia, Pennsylvania, and transported to the Philadelphia central detective's division pending charges when, following an altercation with another individual, a non-defendant police officer recovered a firearm from Mr. Mack's car.

(*Id.* at 2, 3.) Mr. Mack's personal belongings that were recovered from his car during the arrest, including a combination-locked safe seized from his trunk, were also transferred to the detective's division. (*Id.* at 4.) While Mr. Mack was being processed and charged, defendants Burnett, Baynard, and Lowry allegedly cut the hinge off Mr. Mack's safe to search it.

(*Id.*) Mr. Mack had refused to tell them the passcode. (*Id.* at 4-5.) The officers did not have a warrant but nevertheless broke into the safe, damaged it, and "stole" some of the contents, such as jewelry, money, and personal paperwork. (*Id.* at 5, 10.) Mr. Mack did not discover that the safe had been damaged and that his property had been taken until the property was returned pursuant to a "return of property proceeding." (*Id.*)

Based on these allegations, Mr. Mack asserts Fourth Amendment unreasonable search and seizure claims, Fifth Amendment deprivation of property claims, and Fourteenth Amendment due process

claims. (Id. at 8-11.) He seeks money damages and for the police officers to be terminated from their employment. (Id. at 12.) II. STANDARD OF REVIEW As Mr. Mack is proceeding pro se, 28 U.S.C. § 1915(e)(2)(B)(ii) applies, which requires the Court to dismiss the Amended Complaint if it fails to state a claim.

Whether a complaint fails to state a claim under § 1915(e)(2)(B)(ii) is governed by the same standard applicable to motions to dismiss under Federal Rule of Civil Procedure 12(b)(6), see *Tourscher v. McCullough*, 184 F.3d 236, 240 (3d Cir. 1999), which requires the Court to determine whether the complaint contains “sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quotations omitted).

At this early stage of the litigation, the Court will accept the facts alleged in the pro se complaint as true, draw all reasonable inferences in the plaintiff’s favor, and ask only whether the complaint contains facts sufficient to state a plausible claim. See *Shorter v. United States*, 12 F.4th 366, 374 (3d Cir. 2021), abrogation on other grounds recognized by *Fisher v. Hollingsworth*, 115 F.4th 197 (3d Cir.

2024). Conclusory allegations do not suffice. *Iqbal*, 556 U.S. at 678. Additionally, a court may dismiss a complaint based on an affirmative defense such as the statute of limitations when the “defense is apparent on the face of the complaint.” *Wisniewski v. Fisher*, 857 F.3d 152, 157 (3d Cir. 2017).

As Mr. Mack is proceeding pro se, the Court construes his allegations liberally. *Vogt v. Wetzel*, 8 F.4th 182, 185 (3d Cir. 2021) (citing *Mala v. Crown Bay Marina, Inc.*, 704 F.3d 239, 244-45 (3d Cir. 2013)). III. DISCUSSION Mr. Mack asserts constitutional claims pursuant to § 1983, the vehicle by which federal constitutional claims may be brought against state actors in federal court.

Based on the allegations in the Amended complaint, Mr. Mack’s § 1983 claims are time barred. See *Whitenight v. Commw. of Pa. State Police*, 674 F. App’x 142, 144 (3d Cir. 2017) (per curiam) (“When screening a complaint under § 1915, a district court may sua sponte dismiss the complaint as untimely under the statute of limitations where the defense is obvious from the complaint and no development of the factual record is required.” (citations omitted)).

Section 1983 claims, such as those brought by Mr. Mack, are subject to the state statute of limitations for personal injury actions. See *Wallace v. Kato*, 549 U.S. 384, 387 (2007). In Pennsylvania, that limitations period is two years. See 42 Pa. Cons. Stat. § 5524. A claim accrues “when a plaintiff has a complete and present cause of action, that is, when [he] can file suit and obtain relief.” *Dique v. N.J.*

State Police, 603 F.3d 181, 185 (3d Cir. 2010) (quotations omitted). In general, this means that the statute of limitations will start running at the time the plaintiff “knew or should have known of the injury upon which [his] action is based.” *Samerica Corp. of Del. v. City of Phila.*, 142 F.3d 582, 599

(3d Cir. 1998). Mr. Mack's claims accrued when he was detained, searched, and had his personal belongings seized.

See *Nguyen v. Pennsylvania*, 906 F.3d 271, 273 (3d Cir. 2018) (noting that illegal search claims accrue at "the moment of the search"); *Ojo v. Luong*, 709 F. App'x 113, 116 (3d Cir. 2017) (per curiam) ("Most of [plaintiff's claims] accrued when defendants conducted their searches and seizures on July 11, 2011, because [plaintiff] knew or should have known the basis for these claims at that time."); *Wilson v. City of Newark*, No. 06-5219, 2007 WL 1135301, at *2 (D.N.J.

Apr. 16, 2007) (observing that deprivation of property claims are subject to a two- year statute of limitations). Mr. Mack states that he was arrested during the early morning hours of December 31, 2020 and that the alleged illegal search of his safe occurred within "twelve or so hours" after he arrived at the central detective's division. (DI 9 at 4.)

Thus, he was required to bring his claims by December 31, 2022. Since Mr. Mack did not file this lawsuit until July 31, 2025, over two and a half years after the statute of limitations expired, it is apparent from the face of his Amended Complaint that his claims must be dismissed as time barred.² To the extent that Mr. Mack contends that his claims did not accrue until the safe was returned to him at the conclusion of the Return of Property proceedings, the claims would nevertheless be time barred.

The public docket reflects that Mack's Return of Property proceedings commenced on April 14, 2022 when he filed a Motion for Return of Property and concluded on April 28, 2022, when an Order granting the return of his property was entered. See *In re: Dontay K. Mack*, CP-51-MD-001434-2002.

Accordingly, even if the claims accrued on April 28, 2022, Mr. Mack would have had to have filed his Complaint on or before April 28, 2024 for it to be timely, which he did not do. IV. CONCLUSION For the foregoing reasons, the Court will dismiss the Amended Complaint as time barred. Since Mr. Mack cannot cure the fact that his case is untimely, he will not be given leave to amend.

A final order follows. ² Moreover, there are no allegations in the Amended Complaint that would support a basis for equitable tolling of the claims. See *Lloyd v. Ocean Twp. Counsel*, 857 F. App'x 61, 64 (3d Cir. 2021) (per curiam) (stating that equitable tolling is generally appropriate where: (1) a defendant actively misleads a plaintiff regarding a cause of action; (2) a plaintiff has been prevented from asserting a claim as a result of other extraordinary circumstances; or (3) a plaintiff has timely asserted her claims, but in the wrong forum).