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Gallagher Sharp Newsflash: 1983 Actions Governed by 2-Year Statute of Limitations

On August 12, 2008, the Supreme Court of Ohio held, in a case decided by a 5-2 vote, that the statute of limitations applicable to civil rights actions under Section 1983, Title 42 of the U.S. Code is the two-year deadline imposed by R.C. 2305.10(A), which the Court identified as Ohio's "general statute of limitations" for personal injury actions. See, *Nadra v. Mbah*, Slip Opinion No. 2008-Ohio-3918.

Following an investigation by the Franklin County Children Services of reports that Rev. Iyabo Nadra was abusing her minor son, two Franklin County Children Services employees, Susan Mbah and Mindy Grote, filed a complaint in juvenile court that resulted in an order granting temporary custody of the child to the Franklin County Children Services. Ultimately, the juvenile court terminated the County's temporary custody and granted permanent custody to the child's father.

In February 2005, Nadra filed a civil lawsuit against Mbah and Grote asserting multiple claims, including a claim that the child abuse complaint against her was false and accordingly her rights under Section 1983 of the federal civil rights act had been violated. The trial court awarded summary judgment in favor of Mbah and Grote on all claims on the grounds that the two-year time limit set forth in R.C. 2305.10(A) and R.C. 2744.04 was applicable to all of Nadra's claims, and that her complaint had not been filed within that time limit. On appeal, the Tenth District Court of Appeals partially reversed the trial court and held that the statute of limitations applicable to Nadra's Section 1983 claims was four years, as provided in R.C. 2305.09(D), the statute applicable to causes of action for "an injury to the rights of the plaintiff not * * * enumerated in" other specified sections of the Revised Code.

The Supreme Court of Ohio agreed to hear the discretionary appeal filed by Mbah and Grote. The Court's majority opinion observed that, because the federal statute does not set forth its own time limit for filing suit under its provisions and the different states have established different limitations periods for various types of tort claims, the Supreme Court of the United States held in a case called *Owens v. Okure* that the filing of Section 1983 claims in each state is subject to that state's "general statute of limitations" applicable to personal injury actions. After comparing the scope and purpose of the two-year limitation period in R.C. 2305.10(A) with the four-year limitation set forth in R.C. 2305.09(D), the Supreme Court of Ohio held that because R.C. 2305.10(A) is Ohio's general statute of limitations for personal injuries, that statute is the appropriate one to apply to all federal civil rights claims filed under 42 U.S.C. Section 1983. Because the child-abuse charge was filed in January 2002, and the permanent custody of Nadra's child was awarded to the child's father in August 2002, both of which occurred more than two years prior to the filing of the complaint in February 2005, Nadra's complaint was barred by the two-year statute of limitations in R.C. 2305.10(A).

The Court's majority opinion was written by Justice Evelyn Lundberg Stratton. Justice Paul E. Pfeifer entered a dissenting opinion, joined by Justice Judith Ann Lanzinger.

The full opinion can be accessed at: <http://www.sconet.state.oh.us/rod/docs/pdf/0/2008/2008-Ohio-3918.pdf>.

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