

[NOT FOR PUBLICATION-NOT TO BE CITED AS PRECEDENT]

# United States Court of Appeals For the First Circuit

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No. 00-1280

JOHN SHEWCHUN, PHD,  
Plaintiff, Appellant,  
v.

STATE OF RHODE ISLAND, ET AL.,  
Defendants, Appellees.

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APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

[Hon. Ernest C. Torres, U.S. District Judge]  
[Hon. David L. Martin, U.S. Magistrate Judge]

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Before

Torruella, Chief Judge,  
Selya and Boudin, Circuit Judges.

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John Shewchun on brief pro se.  
Sheldon Whitehouse, Attorney General, and Neil F.X. Kelly,  
Special Assistant Attorney General, on brief for appellees.

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January 24, 2001

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Per Curiam. The district court held that plaintiff's claims under 42 U.S.C. § 1983 were barred by the forum State's statute of limitations. Plaintiff repeats here some of the arguments which he presented below and adds others. The added arguments were waived by the failure to urge them below and there is no plain error.

Reviewing the preserved issues de novo in light of the briefs and the record on appeal, we agree with the district court that the suit was filed almost eight years too late. Specifically, plaintiff has not substantiated his claim that a lawsuit which he commenced during the limitations period had remained pending for any significant portion of the intervening years. He also offers no convincing argument for use of the equitable exception to the limitations period for "continuing violations." Construed in light of what he pleaded and could prove, the complaint alleged several communications of mistaken information emanating from a single wrongful act (the alleged entry into the state court records of wrong information about the terms of the plaintiff's probationary sentence in breach of a plea agreement). No systemic policy nor practice was alleged. The pendent claim, too, properly was dismissed.

We need not reach the ineffective assistance claim since there is no right to counsel in a civil case. The alleged impropriety by plaintiff's private counsel did not affect the result in this case.

Affirmed.