

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEPHAN L. MARKO,  
Appellant,  
vs.  
RENO POLICE DEPARTMENT, AND  
OFFICER ALLEN FOX,  
Respondents.

No. 37592

**FILED**

JUL 26 2002

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

This is a proper person appeal from an order dismissing appellant's 42 U.S.C. § 1983 complaint, which alleged personal injuries from unlawful police entry and use of excessive force. Having reviewed the record, we conclude that the district court did not err in dismissing the complaint.

A state's statute of limitation for personal injury actions applies to § 1983 claims,<sup>1</sup> and when state law provides multiple statutes of limitation for various types of personal injury actions, courts should apply the state's general or residual statute of limitation for personal injury actions.<sup>2</sup> Nevada has two separate statutory sections establishing limitation periods for personal injury actions, NRS 11.190(4)(c) (two years for libel, slander, assault, battery, false imprisonment or seduction) and NRS 11.190(4)(e) (two years for wrongful or negligent injuries or death). Both sections provide a two-year limitation period, but the first encompasses certain intentional torts while the second encompasses all personal injuries whether intentional or negligent; NRS 11.190(4)(e) is, in

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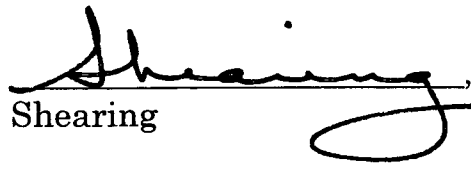
<sup>1</sup>Wilson v. Garcia, 471 U.S. 261, 279-80 (1985).

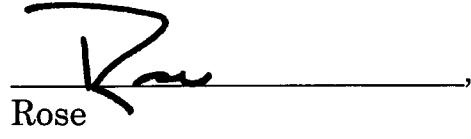
<sup>2</sup>Owens v. Okure, 488 U.S. 235, 249-50 (1989).

effect, Nevada's residual statute of limitation for personal injury actions.<sup>3</sup> Consequently, appellant had two years within which to file his § 1983 suit.

Appellant's action accrued when he was allegedly beaten, assaulted and arrested, and sustained injuries: January 29, 1996.<sup>4</sup> He filed his complaint on January 9, 2001. The complaint was filed too late, and the district court properly dismissed it.<sup>5</sup> Accordingly, we affirm.

It is so ORDERED.

 J.  
Shearing

 J.  
Rose

 J.  
Becker

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<sup>3</sup>Perez v. Seevers, 869 F.2d 425 (9th Cir. 1989).

<sup>4</sup>See Petersen v. Bruen, 106 Nev. 271, 274, 792 P.2d 18, 20 (1990).

<sup>5</sup>The district court granted respondents' motion to dismiss based on appellant's failure to oppose the motion. Appellant's opposition was filed after entry of the court's order. We have considered the opposition and conclude that it provided no legal basis for denying the motion to dismiss; dismissal was proper as a matter of law. See, e.g., Rosenstein v. Steele, 103 Nev. 571, 575, 747 P.2d 230, 233 (1987) (noting that this court will affirm a district court's order if the district court reached the correct result, even if for different reasons).

cc: Hon. Steven P. Elliott, District Judge  
Stephan L. Marko  
Reno City Attorney  
Washoe District Court Clerk