

Statutes of Limitation in 1983 Claims

[Brian K Nichols](#)

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Wallace v. Kato

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In February, 2007, the United States Supreme Court began to clarify several points related to statutes of limitation for civil rights claims under 42 U.S.C. § 1983. The case, *Wallace v. Kato*, may expand the circumstances in which the defense will succeed. It may also result in § 1983 claims being filed prior to conviction, which may assist defendants in assembling evidence for the defense. However, *Wallace* also raises some possible pitfalls, expressed in footnotes because the issue was not squarely raised by the facts.

Wallace begins to clarify whether the statute of limitation for a § 1983 claim is affected by criminal proceedings and convictions. Criminal proceedings do not alter when the claim “accrues,” the point in time at which the period for a timely § 1983 claim begins to run. Also, criminal matters do not “toll,” or pause, the time period once it has accrued and is running. *Wallace* also establishes the time of accrual for some § 1983 claims based on the Fourth Amendment. Two points of legal background will assist in explaining *Wallace*.

Legal Background

Section 1983 provides a civil action based on allegations that a state actor violated another person’s civil rights. However, when the plaintiff has one or more criminal convictions related to the alleged violation, then she may not bring a § 1983 claim which would invalidate the convictions. The effect of this rule is that only if the plaintiff is, essentially, cleared of criminal conduct may she pursue a § 1983 claim against the state actor. The case establishing these principles was *Heck v. Humphrey*, 512 U.S. 477 (1994).

Second, Section 1983 does not include a statute of limitation. Thus, courts “borrow” a time period from state statutes.

Facts

In 1994 police transported Andre Wallace, then 15 years old, to a police station, where he confessed to a murder. After conviction, he successfully argued on appeal that his confession was the result of an unlawful arrest. After more proceedings, charges were dropped. Still later, in 2003, he filed a § 1983 claim. The applicable state statute of limitation was two years.

Accrual

The Supreme Court expressly stated, for the first time, that courts should not reference state law when determining the accrual of a § 1983 claim. Rather, the Court relied on treatises and similar authorities. Generally, the Court stated that § 1983 actions accrue when damages result, even if the full extent of injury is unknown.

In determining the point of accrual of a false arrest/Fourth Amendment claim, the Court considered the distinction between malicious abuse of prosecution, on one hand, and false arrest and false imprisonment, on the other. The Court determined that the § 1983 claim based on false arrest could be stated as soon as the arrest occurred. However, because Wallace was apparently detained through trial, his cause of action accrued when he was bound over for trial by a magistrate. At that point his false arrest and imprisonment “ended,” and he was subject to state action possibly constituting malicious abuse of prosecution. The Court did not determine whether a plaintiff could state a § 1983 claim based on malicious abuse of prosecution in violation of the Fourth Amendment. In a footnote it specifically reserved that for a later case.

Heck, Accrual and Tolling

The Court reached three holdings regarding the *Heck* bar to prosecution and § 1983 claims.

First, the Court held that the possibility of future prosecution does not prevent the accrual of a § 1983 claim. To preserve her claim, a plaintiff must file her § 1983 claim regardless of possible criminal proceedings. The court hearing the § 1983 claim should stay proceedings until conviction is obtained (which then bars the § 1983 claim under *Heck*) or prosecution fails or is no longer likely (allowing the claim to proceed absent another bar).

Second, the Court held that a conviction, and the resulting *Heck* bar to a § 1983 claim, does not toll the running of the statute of limitation of an unfiled § 1983 claim. As a result, if the statute of limitation completely ran while the plaintiff was contesting her conviction, as happened to Wallace, then the § 1983 claim is time-barred. Note that courts look to state law to determine tolling rules for § 1983 claims, and Wallace’s claim was tolled for some period until he reached the age of majority.

Third, in another footnote the Court stated that if a plaintiff filed a § 1983 claim, she was convicted, the § 1983 claim was dismissed under *Heck*, and then the plaintiff obtained the reversal of her conviction, the plaintiff would have some period of time to re-file the § 1983 claim. To hold otherwise would convert *Heck* to a form of immunity. Because this circumstance was not present in Wallace, the Court did not determine the period of time for re-filing, or whether state law should be referenced in the determination.

Practical Effect

There was a concurrence and dissent in *Wallace*, but each of the Court’s holdings enjoyed the support of at least seven Justices and each is therefore binding. Supreme

Court holdings are applied to all future and pending cases as of the date of decision, including those cases on direct appeal.

In practice, the result is likely two-fold. First, there is likely an expansion of the circumstances under which defendants may assert the statute of limitation defense. Second, some plaintiffs will file § 1983 actions before criminal proceedings result in conviction. The claim may be preserved, depending on the outcome of the criminal proceedings. Defendants will likely gain earlier notice of § 1983 claims, enhancing the opportunity to gather and retain evidence.