

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

VALERIE LYNN CADDELL,
Plaintiff,

vs.

Case No. 07-1086-JTM

CITY OF WICHITA,
Defendant.

MEMORANDUM AND ORDER

The present matter arises on plaintiff's objections to the Magistrate Judge's recommendation of dismissal on March 28, 2007 and its Supplemental Report and Recommendation of Dismissal on June 22, 2007, following the plaintiff's submission of a package which the court considered as an Amended Complaint. Specifically, the Magistrate Judge found that plaintiff's claims of brutality/excessive force against the City of Wichita Police Department were barred by the statute of limitations.

The review of the Magistrate Judge's Order is *de novo*, pursuant to Fed. R. Civ. P. R. 72(b).

Plaintiff filed the present complaint on March 28, 2007, which alleged violations of her civil rights as a result of alleged incidents of excessive force by the Wichita Police Department. Plaintiff alleged specifically that two incidents of excessive force occurred on March 31, 2002, and April 6, 2002.

The Tenth Circuit has held that civil rights actions should be considered to be violations of personal rights. *Garcia v. Wilson*, 731 F.2d 640 (10th Cir. 1984), *aff'd* 471 U.S. 261, (1985). Under this standard and the appropriate Kansas statute, K.S.A. § 60-513(a)(4), a two-year statute of limitations is applicable for “injury to the rights of another.”

From this court’s review, it appears that plaintiff filed the present case on March 28, 2007. The filing of plaintiff’s complaint, however, exceeded the relevant statute of limitations period of two years beyond the alleged incidents that occurred on March 31, 2002 and April 6, 2002. For this reason, the court denies plaintiff’s objection to the Magistrate Judge’s recommendation of dismissal.

IT IS ACCORDINGLY ORDERED this 25th day of July, 2007, that plaintiff’s motion (Dkt. No. 5) is denied.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE