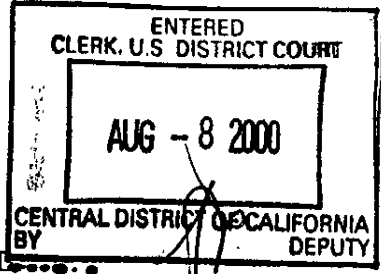


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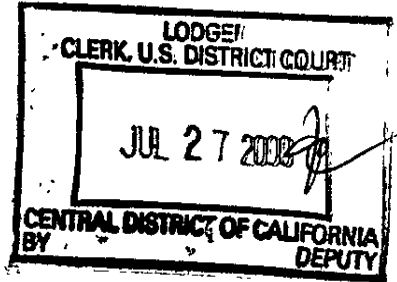
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT



NO. 99-55540
CT/AG#: CV-98-09242-JSI

RICHARD F. BRODERICK, personally represented by Margaret E. Broderick
Plaintiff- Appellant

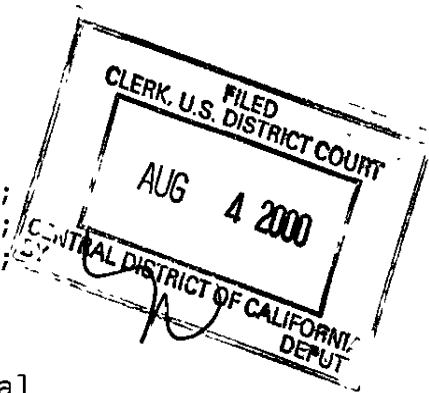
MARGARET E. BRODERICK
Plaintiff - Appellant



v.

FRANK GOODROE, clerk in his individual & official capacity
Defendant

and



WILLIAM MATTHEW BYRNE, Chief Judge Federal District;
MARIANNA PFAELZER, in her individual and official capacity;
WILLIAM D. KELLER, in his individual and official capacity;
DICKRAN TEVRIZIAN, in his individual and official capacity;
BRIAN ROBBINS, in his individual and official capacity;
VIRGINIA A. PHILLIPS, in her individual and official capacity;
ROBERT N. BLOCK, in his individual and official capacity;
ROSALYN M. CHAPMAN, in her individual and official capacity;
CARLA M. WHEHRLE, Magistrate in civil rights suit CV-96-6816-MRP-CW;
ANN I. JONES, in her individual and official capacity;
SHERRI R. CARTER, Federal Court Clerk;
PETER SHAW, Clerk Coordinator; NORA MANELLA, in her individual and official capacity;
RICHARD DROOYAN, in his individual and official capacity;
LEON W. WEIDMAN, Assistant US Attorney;
AARON S. DYER, in his individual and official capacity;
PAMELA JOHNSTON, in her individual and official capacity;
ROBERT I. LESTER, in his individual and official capacity;
ELLIOT KREIGER, in his individual and official capacity;
SHERWOOD M. TRABAJERO, in his individual and official capacity;
INTERNAL REVENUE SERVICE; MARTIN JUAREZ, IRS;
STEPHEN JENSEN, IRS District Director; ELIZABETH CARLSON, IRS Attorney;
JANET RENO, in her individual and official capacity;
LUCY CRUZ, IRS; LISA GREEN, in her individual and official capacity;
MARVIN RUNYON, Postmaster General; PAMELA PRINCE; KATHLEEN HAWK SAWYER, Bureau of Prisons;
W.H. Seifert, Warden Metropolitan Detention Center of Los Angeles; BRUCE ZUCKER, in his individual and official

- Docketed
- Copies NTC Sent
- JS - 5 / JS - 6
- JS - 2 / JS - 3
- CLSD

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APPEAL FROM the United States District Court for the
Central District of California, Los Angeles .

THIS CAUSE came on to be heard on the Transcript of the
Record from the United States District Court for the
Central District of California, Los Angeles
and was duly submitted.

ON CONSIDERATION WHEREOF, It is now here ordered and
adjudged by this Court, that the judgment of the said
District Court in this cause be, and hereby is AFFIRMED.

Filed and entered March 31, 2000

A TRUE COPY
CATHY A. CATTERSON
Clerk of Court
ATTEST
JUL 25 2000
by: *Paul Nelson*
Deputy Clerk

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 31 2000

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

MARGARET E. BRODERICK; RICHARD F. BRODERICK,

Plaintiffs-Appellants,

v.

FRANK GOODROE, Clerk in his individual & official capacity; WILLIAM MATTHEW BYRNE, Chief Judge Federal District; MARIANNA PFAELZER, in her individual and official capacity; WILLIAM D. KELLER, in his individual and official capacity; DICKRAN TEVRIZIAN, in his individual and official capacity; BRIAN ROBBINS, in his individual and official capacity; VIRGINIA A. PHILLIPS, in her individual and official capacity; ROBERT N. BLOCK, in his individual and official capacity; ROSALYN M. CHAPMAN, in her individual and official capacity; CARLA M. WHEHRLE, Magistrate in civil rights suit CV-96-6816-MRP-CW; ANN I. JONES, in her individual and official capacity; SHERRI R. CARTER, Federal Court Clerk; PETER SHAW, Clerk Coordinator; NORA MANELLA, in her individual and official capacity; RICHARD DROOYAN, in his individual and official capacity; LEON W. WEIDMAN, Assistant US Attorney; AARON S. DYER, in his individual and official capacity; PAMELA JOHNSTON, in her individual and official capacity; ROBERT I. LESTER, in his individual and official capacity; ELLIOT KREIGER, in his individual and official capacity; SHERWOOD M. TRABAJERO, in his individual and official capacity; INTERNAL REVENUE SERVICE; MARTIN JUAREZ, IRS; STEPHEN JENSEN, IRS; District Director; ELIZABETH CARLSON, IRS Attorney; JANET RENO, in her individual and official capacity; LUCY CRUZ, IRS; LISA GREEN, in her individual and official capacity; MARVIN RUNYON, Postmaster General; PAMELA PRINCE; KATHLEEN HAWK SAWYER, Bureau of Prisons; W.H. SEIFERT, Warden Metropolitan Detention Center of Los Angeles; BRUCE ZUCKER, in his individual and official capacity,

Defendants-Appellees.

No. 99-55540

D.C. No. CV-98-09242-JSL

MEMORANDUM¹

¹ This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by 9th Cir. R. 36-3.

Appeal from the United States District Court
for the Central District of California
J. Spencer Letts, District Judge, Presiding

Submitted March 20, 2000²

Before: FARRIS, CANBY, and W. FLETCHER, Circuit Judges.

Richard F. Broderick and Margaret E. Broderick appeal pro se the district court's order dismissing Richard Broderick's 42 U.S.C. § 1983 and *Bivens* action alleging a warrantless search and seizure. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo the district court's denial of a motion to remand, see *Cantrell v. Great Republic Ins. Co.*, 873 F.2d 1249, 1251 (9th Cir. 1989), and the district court's dismissal based on a statute of limitations, see *Matthews v. Macanas*, 990 F.2d 467, 468 (9th Cir. 1993) (per curiam). We affirm.

The district court properly denied Richard Broderick's motion to remand to state court. Because Richard Broderick alleged *Bivens* and 42 U.S.C. § 1983 claims against federal officials and agencies, the defendants properly removed the case to federal district court pursuant to 28 U.S.C. § 1442(a)(1), and the district court properly exercised subject matter jurisdiction under 28 U.S.C. § 1331. See

² The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Nebraska ex rel. Dep't of Soc. Servs. v. Bentson, 146 F.3d 676, 678-79 (9th Cir. 1998).

The district court properly dismissed the claims asserted on behalf of Margaret E. Broderick because Margaret E. Broderick did not file a complaint on her own behalf or obtain an attorney, and Richard Broderick, who is not an attorney, could not prosecute claims on her behalf. *See C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697 (9th Cir. 1987); *Johns v. County of San Diego*, 114 F.3d 874, 877 (9th Cir. 1997) (holding a father cannot file claims on behalf of his son without retaining an attorney).

The district court properly dismissed Richard Broderick's warrantless search and seizure claim because it was barred by the one-year statute of limitations. *See Matthews*, 990 F.2d at 468-69 (holding that the California one-year statute of limitations is applicable to *Bivens* actions in federal court and begins at the date of the wrongful act); *Fink v. Shedler*, 192 F.3d 911, 914 (9th Cir. 1999) (holding that California's one-year statute of limitations applicable to 42 U.S.C. § 1983 actions begins to run when the plaintiff knows, or should know, of the injury on which the cause of action is based).

Richard Broderick's contention on appeal that the statute of limitation was equitably tolled lacks merit because at no point before the district court did he allege

facts establishing, or even suggesting, a potential basis for equitable tolling. *See Hinton v. Pac. Enters.*, 5 F.3d 391, 395 (9th Cir. 1993) (holding that the burden to plead facts which would give rise to equitable tolling falls upon the plaintiff).

Margaret E. Broderick's objection to this court's order dated November 5, 1999, and her motion for extension of time to subpoena video tapes of news footage from CNN News Network, are denied.

AFFIRMED.

A TRUE COPY
CATHY A. CATTERSON
Clerk of Court
ATTEST
JUL 25 2000
by: *[Signature]*
Deputy Clerk

INTERNAL USE ONLY: Proceedings include all events.
99-55540 Broderick, et al v. Goodroe, et al

MARGARET E. BRODERICK
Plaintiff - Appellant

Margaret E. Broderick ✓
R# 07018-112
[COR LD NTC prs]
FCI-Dublin
Camp Parks, Unit E
5701 - 8th Street
Dublin, CA 94568

RICHARD F. BRODERICK,
personally represented by
Margaret Broderick
Plaintiff - Appellant

Richard F. Broderick
[COR LD prs]
3227 Honeysuckle Avenue
Palmdale, CA 93550

v.

FRANK GOODROE, clerk in his
individual & official capacity
Defendant

WILLIAM MATTHEW BYRNE, Chief
Judge Federal District
Defendant - Appellee

Robert I. Lester ✓
213/894-2879
[COR LD NTC aus]
U.S. ATTORNEYS OFFICE
300 N. Los Angeles St.
Los Angeles, CA 90012

MARIANNA PFAELZER, in her
individual and official
capacity
Defendant - Appellee

Robert I. Lester
(See above)
[COR LD NTC aus]

WILLIAM D. KELLER, in his
individual and official
capacity
Defendant - Appellee

Robert I. Lester
(See above)
[COR LD NTC aus]

DICKRAN TEVRIZIAN, in his
individual and official
capacity
Defendant - Appellee

Robert I. Lester
(See above)
[COR LD NTC aus]

BRIAN ROBBINS, in his
individual and official
capacity
Defendant - Appellee

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(See above)
[COR LD NTC aus]

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in her individual and official
capacity; CARLA M. WHEHRLE,

Robert I. Lester
(See above)
[COR LD NTC aus]

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Defendant - Appellee