

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 26-1891

TIMOTHY LEE GIBSON,
Appellant

v.

DAUPHIN COUNTY ADULT PROBATION; HARRISBURG CITY POLICE
DEPARTMENT; APO BRUCE CUTTER, Adult Probation Officer;
JACOBBI HARPER, Harrisburg Police Officer

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civil Action No. 1:25-cv-02375)
District Judge: Honorable Yvette Kane

Submitted Pursuant to Third Circuit LAR 34.1(a)
September 16, 2026
Before: KRAUSE, RESTREPO, and PORTER, *Circuit Judges*

(Opinion filed: September 18, 2026)

OPINION*

PER CURIAM

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Appellant Timothy Lee Gibson was arrested in November 2021 by a probation and parole officer conducting a scheduled residential check of a different individual. In March 2024, stemming from that encounter, Gibson was convicted of possession of a controlled substance, obstructing the administration of law, and possession of drug paraphernalia. In March 2025, the Superior Court of Pennsylvania vacated Gibson's judgment of sentence, ruling that his conviction resulted from an illegal search and seizure.

In December 2025, Gibson sought to file a pro se complaint in forma pauperis ("IFP") against the defendants, alleging a claim of an illegal search and seizure pursuant to 42 U.S.C. § 1983 arising out of the November 2021 incident.

In January 2026, after granting Gibson IFP status for screening purposes only, a Magistrate Judge screened the Complaint pursuant to 28 U.S.C. § 1915(e)(2) and recommended that the Complaint be dismissed as time-barred for failure to state a claim upon which relief can be granted. Over Gibson's objections, the District Court agreed that the § 1983 claim is time-barred, adopted the Report and Recommendation, and sua sponte dismissed the complaint under 28 U.S.C. § 1915(e)(2)(ii) with prejudice. Gibson appeals and moves for appointment of counsel.

We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo a dismissal pursuant to § 1915(e)(2)(B)(ii). *See Allah v. Seiverling*, 229 F.3d 220, 223 (3d Cir. 2000). Upon review, we will affirm the District Court's judgment.

Section 1983 has no enumerated statute of limitations; rather, it borrows the statute of limitations from state personal injury torts. *Wallace v. Kato*, 549 U.S. 384, 387 (2007). Therefore, the applicable statute of limitations in Pennsylvania is two years. *See* 42 Pa. Cons. Stat. Ann. § 5524; *see also Kach v. Hose*, 589 F.3d 626, 634, 639 (3d Cir. 2009) (“[T]he statute of limitations for a § 1983 claim is governed by the personal injury tort law of the state where the cause of action arose.”). While the law of the state where the cause of action arose provides the length of the limitations period and tolling principles, *see Wallace*, 549 U.S. at 387, federal law determines when a claim accrues and the limitations period begins to run, which is “when the last act needed to complete the tort occurs.” *See Nguyen v. Pennsylvania*, 906 F.3d 271, 273 (3d Cir. 2018).

Gibson argues that because his conviction was based on evidence obtained through an unconstitutional seizure, the statute of limitations did not begin to run until the Superior Court vacated his judgment of sentence in March 2025, thereby making his December 2025 filing timely.

In *Nguyen v. Pennsylvania*, this Court rejected an identical argument. Nguyen was stopped, searched, and prosecuted based on evidence from that search. *Nguyen*, 906 F.3d at 272–73. The trial court denied suppression and an appellate court later held that search unconstitutional. *Id.* at 273. Nguyen argued his Section 1983 claim did not accrue until that later ruling. *Id.* This Court disagreed, holding the limitations period ran from the search itself, not from the date a court later declared it unlawful. *Id.*

Gibson’s claim rests on the same theory and fails for the same reason. Specifically, his cause of action accrued at the November 2021 search, not when the Superior Court vacated his judgment of sentence in March 2025. Therefore, Gibson had until November 2023, two years from the November 2021 search, to file and did not do so until December 2025.¹ Because Gibson’s claim is time-barred under *Nguyen*, and that was clear from the face of the complaint, no error is apparent in the District Court’s dismissal.²

Accordingly, we will affirm the judgment of the District Court. Gibson’s motion for appointment of counsel is denied. *See Tabron v. Grace*, 6 F.3d 147, 155 (3d Cir. 1993).

¹ As in *Nguyen*, Gibson does not argue, and the facts do not suggest, that he would be eligible for equitable tolling.

² A court may sua sponte dismiss an untimely complaint if “it is clear from the face of the complaint that there are no meritorious tolling issues, or the court has provided the plaintiff notice and an opportunity to be heard on the issue.” *Vasquez Arroyo v. Starks*, 589 F.3d 1091, 1097 (10th Cir. 2009); *see also Jones v. Bock*, 549 U.S. 199, 214–15 (2007) (explaining that a complaint whose allegations show that they are clearly time-barred is subject to dismissal for failure to state a claim). In this case, not only was the untimeliness apparent on the face of the complaint but also Gibson had an opportunity to be heard on the issue through his objections to the dismissal proposed in the Report and Recommendation.