

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 31 2026

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ANTHONY LEVI HILL,

Plaintiff - Appellant,

v.

GALLATIN COUNTY SHERIFF'S
OFFICE; GALLATIN COUNTY
SHERIFF; MONTANA DEPARTMENT
OF CORRECTIONS; UNKNOWN
OFFICERS, 1-3,

Defendants - Appellees.

No. 25-190

D.C. No. 2:24-cv-00080-DWM

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Submitted August 25, 2026**

Before: SILVERMAN, N.R. SMITH, and DE ALBA, Circuit Judges.

Anthony Levi Hill appeals pro se from the district court's judgment
dismissing his 42 U.S.C. § 1983 action alleging excessive force claims related to

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

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

his arrest. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Wilhelm v. Rotman*, 680 F.3d 1113, 1118 (9th Cir. 2012) (dismissal under 28 U.S.C. § 1915A); *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012) (dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii)); *Lukovsky v. City & County of San Francisco*, 535 F.3d 1044, 1047 (9th Cir. 2008) (dismissal under the applicable statute of limitations). We vacate and remand.

The district court dismissed Hill’s action as time-barred because Hill failed to file the action within the applicable statute of limitations or establish equitable tolling. However, Hill asserted that he had pursued his claims by filing a lawsuit in state court, petitioning for state habeas corpus relief, and attempting to file “an appeal.” In light of these contentions, Hill may be able to amend to allege a basis for equitable tolling. *See Soto v. Sweetman*, 882 F.3d 865, 871 (9th Cir. 2018) (“Federal courts in § 1983 actions apply the state statute of limitations from personal-injury claims and borrow the state’s tolling rules.”); *Supermail Cargo, Inc. v. United States*, 68 F.3d 1204, 1206-07 (9th Cir. 1995) (explaining that complaints may be dismissed as time-barred only if “it appears beyond doubt that the plaintiff can prove no set of facts that would establish the timeliness of the claim” and the factual and legal issues are clear enough to allow the court to “determine with certainty whether the [equitable tolling] doctrine could be successfully invoked”); *Lozeau v. Geico Indemnity Co.*, 207 P.3d 316, 323-34

(Mont. 2009) (explaining that under Montana law, equitable tolling may apply where “a party reasonably and in good faith pursues one of several possible legal remedies” and satisfies additional criteria (citation and internal quotation marks omitted)).

We vacate the judgment and remand for the district court to grant Hill further leave to amend to allege facts to invoke equitable tolling with respect to his excessive force claims only.

The motion (Docket Entry No. 16) for appointment of pro bono counsel is denied.

VACATED and REMANDED.