

limitations period in the District of Columbia. *See* D.C. Code § 12-301(4). Plaintiffs waited about three years to bring this action.

Third, plaintiffs have failed to state a valid *Bivens* claim as to Counts I-IV because defendant Libby is entitled to qualified immunity. A defendant is entitled to immunity unless no reasonable officer could have, under the circumstances, thought the conduct lawful. The conduct plaintiffs allege are not “clearly established” violations of First and Fifth Amendment rights.

Finally, plaintiff Joe Wilson lacks standing to assert Count I because he has not alleged any concrete injury to himself.

Defendants have absolute immunity as to plaintiffs’ common-law tort claim under the Westfall Act, 28 U.S.C. § 2679, because defendants were acting within the scope of their employment at the time of the allegedly tortious conduct. As a result, Count V must be dismissed as to the individual defendants and the United States substituted as the sole defendant.

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Theodore V. Wells, Jr. (DC Bar 468934)
James L. Brochin (DC Bar 455456)
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019-6064
(212) 373-3089 (telephone)
(212) 373-2217 (facsimile)

Respectfully submitted,

/s/ William H. Jeffress, Jr.
William H. Jeffress, Jr. (D.C. Bar 041152)
Alex J. Bourelly (D.C. Bar 441422)
BAKER BOTTS, LLP
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2400
(202) 639-7700 (telephone)
(202) 639-7890 (facsimile)

Counsel for Defendant I. Lewis Libby