

**COURT OF APPEALS
DECISION
DATED AND FILED**

December 13, 2011

A. John Voelker
Acting Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2010AP3021

Cir. Ct. No. 2010CV45

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

WARREN SLOCUM,

PLAINTIFF-APPELLANT,

V.

TOWN OF STAR PRAIRIE BOARD OF REVIEW,

DEFENDANT-RESPONDENT.

APPEAL from orders of the circuit court for St. Croix County:
HOWARD W. CAMERON, Judge. *Affirmed.*

Before Hoover, P.J., Peterson, J., and Thomas Cane, Reserve Judge.

¶1 PER CURIAM. Warren Slocum appeals two orders denying motions to reconsider and reopen a judgment dismissing his certiorari action

against the Town of Star Prairie Board of Review. The circuit court dismissed the certiorari action because it was not timely filed under WIS. STAT. § 70.47(13)¹ and based on Slocum's failure to appear at a hearing. The motions to reconsider and reopen alleged that Slocum did not receive a notice of the hearing and that Slocum filed a "Direct appeal to the local Board of Review, following its initial notification on July 27, 2009." The circuit court denied the motions, concluding that the law does not authorize the procedure Slocum used and the certiorari action was not timely commenced. On appeal, Slocum argues that procedural irregularities, negligence and inattentiveness caused the court to prematurely dismiss the action on "fabricated grounds," and that the action was timely filed under WIS. STAT. § 74.37. We affirm the circuit court's orders.

¶2 On June 17, 2009, Slocum filed an objection to his property tax assessment with the Town of Star Prairie. The Board of Review sustained the tax assessment and issued its notice on June 24, 2009. The notice was personally served on Slocum on July 27, 2009. On January 12, 2010, Slocum filed a "Complaint and Summons Appeal of Property Tax assessment." The complaint sought certiorari review of the Board of Review's determination.

¶3 Under WIS. STAT. § 70.47(13), certiorari review of the board's decision must be commenced within ninety days. Slocum's complaint was filed long after the statute of limitations expired. Slocum cites no legal basis for the court to ignore the mandates of § 70.47(13). Nothing in that statute suspends or tolls the statute of limitations while the property owner pursues an "appeal" to the

¹ All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise stated.

Board of Review. Therefore, the court properly dismissed the certiorari action. See *Hermann v. Town of Delevan*, 215 Wis. 2d 370, 380-81, 572 N.W.2d 855 (1998).

¶4 Slocum’s arguments regarding “procedural irregularities” and “negligence and inattentiveness” relate to his failure to appear at a court hearing. Slocum’s arguments contradict the circuit court’s finding of fact regarding notice of the hearings. The circuit court’s findings are not clearly erroneous. In any event, the court properly dismissed the action and denied the subsequent motions because the action was not timely commenced, regardless of whether Slocum had a legitimate basis for failing to appear at the court hearing.

¶5 Slocum’s argument regarding the time for commencing an action under WIS. STAT. § 74.37(2)(a) is irrelevant because Slocum did not commence or attempt to commence an action under that section. A property owner can appeal a decision of the Board of Review in three ways: (1) by certiorari review under WIS. STAT. § 70.47(13); (2) by filing a written complaint with the Department of Revenue pursuant to WIS. STAT. § 70.85; or (3) by paying the tax and filing a claim against the taxation district to recover any amount of property tax imposed as a result of the excessive assessment pursuant to § 74.37(2)(a). Slocum’s complaint does not allege that he paid the tax or seeks any amount of compensation as a result of the excessive assessment. He does not mention § 74.37 in his complaint or his initial motion to reconsider dismissal of his action, and even on appeal describes his action as a “certiorari action.” Because Slocum’s complaint cannot be construed as an action under § 74.37, Slocum’s arguments regarding the time for commencing such an action are irrelevant.

By the Court.—Orders affirmed.

This opinion will not be published. See WIS. STAT. RULE
809.23(1)(b)5.

