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DISTRICT II

May 20, 2015

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Cory Hewitt, #191547
Chippewa Valley Corr. Treatment Facility
2909 E. Park Ave.
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You are hereby notified that the Court has entered the following opinion and order:

2014AP2640

Cory Hewitt v. Chris Floyde Phillips (L.C. #2013CV843)

Before Neubauer, P.J., Reilly and Gundrum, JJ.

Cory Hewitt appeals pro se from a circuit court order dismissing on summary judgment his action against Chris Floyde Phillips. Based on our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).¹ We affirm the order of the circuit court.

¹ All references to the Wisconsin Statutes are to the 2013-14 version.

On November 6, 2013, Hewitt filed a summons and complaint for a personal injury he alleged was caused by Phillips on August 14, 2010. Phillips filed an answer and asserted various affirmative defenses. The first affirmative defense was that Hewitt's action was barred by the statute of limitations.

Phillips eventually filed a motion for summary judgment based on the statute of limitations defense. Following briefing on the matter, the circuit court agreed with Phillips and dismissed the action on summary judgment. This appeal follows.

We review a grant of summary judgment de novo, using the same methodology as the circuit court. *Estate of Sheppard ex rel. McMorrow v. Schleis*, 2010 WI 32, ¶15, 324 Wis. 2d 41, 782 N.W.2d 85. Summary judgment is proper if there are no genuine issues of material fact and one party is entitled to judgment as a matter of law. *See id.*; *see also* WIS. STAT. § 802.08(2).

On appeal, Hewitt contends that the circuit court erred in dismissing his action on summary judgment. He notes that he is a pro se litigant and explains that he tried to commence his action earlier but was unsuccessful.²

We agree that it was proper to dismiss Hewitt's action on summary judgment. The statute of limitations for personal injury claims is three years, *see* WIS. STAT. § 893.54, and

² Hewitt attempted to start the action by sending some documents to the Washington County Sheriff's Office on or about August 2, 2013. He subsequently sent some documents to the clerk of circuit court but was not able to provide everything necessary to commence the action until November 6, 2013. Although Hewitt appears to accuse the clerk's office of deception in its communications with him, there is no evidence in the record to support his allegation.

Hewitt did not commence his action within the meaning of WIS. STAT. § 801.02(1)³ during this time period. Although Hewitt may believe that he has good cause to excuse his belated filing, the circuit court has no authority to order an enlargement of time in which to commence an action. See *Pulchinski v. Strnad*, 88 Wis. 2d 423, 428-29, 276 N.W.2d 781 (1979).

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed, pursuant to WIS. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals

³ WISCONSIN STAT. § 801.02(1) provides in relevant part, “a civil action in which a personal judgment is sought is commenced as to any defendant when a summons and a complaint naming the person as defendant are filed with the court....”