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DISTRICT II

November 8, 2023

To:

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Circuit Court Judge
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Clerk of Circuit Court
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Justin D. Beaton
Electronic Notice

Hearst Television, Inc.
300 W. 57th St., #39
New York, NY 10019

You are hereby notified that the Court has entered the following opinion and order:

2023AP644

Justin D. Beaton v. Hearst Television, Inc. (L.C. #2022CV728)

Before Neubauer, Grogan and Lazar, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Justin D. Beaton, pro se, appeals from an order dismissing his Amended Complaint against multiple media outlets. Beaton contends the circuit court erred when it ruled that, among other grounds, the statute of limitations barred his lawsuit. Based upon 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 (2021-22).¹ We affirm.

During the 2015-16 school year, Beaton, then twenty-eight years old, worked as a substitute high school teacher in Racine. During that time, he engaged in personal romantic relationships with two students who were seventeen years old. Another teacher discovered the relationships and reported Beaton, who was later charged criminally. Beaton ultimately pled guilty to sexual assault of a student by school staff and exposing a child to harmful material, *State v. Beaton*, No. 2016CF384 (Wis. Cir. Ct. Racine Cnty. Mar. 14, 2017), and he served three years' probation. Twenty-one media outlets reported on the case.

After completing his probation, Beaton attempted to convince the media outlets to remove the stories about his criminal case from the internet based on his contention that the reporting mischaracterized him as a child sexual predator. Sixteen media outlets removed the content.

On November 17, 2022, Beaton filed suit against four media outlets that would not take down the stories—Hearst Television, Inc.,² WDJT-TV Limited Partnership,³ Lee Enterprises, Inc., and Racine County Eye LLC—and he filed an Amended Complaint on January 17, 2023. His suit asserted a claim for negligent infliction of emotional distress and

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

² Hearst Television is named as a Respondent in the appeal, but did not participate.

³ Beaton mistakenly identified WDJT as “Weigel Broadcasting Co.” in the caption. We use the correct name in this opinion.

sought an order from the circuit court requiring the media outlets to remove or redact the news stories about Beaton that still remained accessible on each media outlet's online site.

WDJT and Racine County Eye filed motions to dismiss Beaton's suit, alleging, inter alia, that the statute of limitations had long expired. Lee Enterprises joined in the motions to dismiss. Beaton acknowledged that the applicable statute of limitations had expired, but contended his "exceptional circumstances" should have tolled the limitations period. Specifically, he asserted that he could not file suit until his probation ended and asked the circuit court to apply a probation exception to the statute of limitations. The circuit court ruled that no exception for being on probation existed and granted the motions to dismiss. It entered an order that said: "All claims asserted in this action are dismissed with prejudice and on the merits." Beaton appeals.

A motion to dismiss "presents a question of law we review independently." *Doe 56 v. Mayo Clinic Health Sys.—Eau Claire Clinic, Inc.*, 2016 WI 48, ¶14, 369 Wis. 2d 351, 880 N.W.2d 681. "A motion to dismiss tests the sufficiency of a complaint and will be upheld only when there are no conditions under which a plaintiff may recover." *Id.* "Whether a plaintiff's complaint fails to state a claim is a question of law we review de novo." *Id.* The circuit court's decision to dismiss Beaton's Amended Complaint depended on whether Beaton timely filed it under the applicable statute of limitations. This issue also "involves the interpretation and application of a statute to an undisputed set of facts, which also presents a question of law we review de novo." *See id.* "If a complaint is not timely filed, the claim is time-barred and dismissal will be upheld." *Id.*

Beaton's Amended Complaint asserted a negligence claim against the media outlets.⁴ He concedes that WIS. STAT. § 893.54's three-year statute of limitations has long passed. The media outlets reported on Beaton's case in 2016 and 2017, and he did not file suit within three years of those reports. Beaton makes two arguments in trying to overcome his untimely filing. First, he contends that being on probation prevented him from filing suit and that several probation agents said he "would have gotten in major trouble and had major pushback for attempting a claim like this while under supervision." Even if this is accurate, the statute of limitations contains no tolling exception for being on probation. Beaton fails to provide any legal authority authorizing this court to extend the statute of limitations because a probationer would get in trouble if he filed suit while still serving his sentence.

Second, Beaton argues that the statute of limitations restarts each time a current reader accesses the 2016/2017 news reports. We disagree. Wisconsin applies the "single-publication rule" to determine the statute of limitations in cases involving defamation claims stemming from internet publications. See *Ladd v. Uecker*, 2010 WI App 28, ¶12, 323 Wis. 2d 798, 780 N.W.2d 216 (rejecting "the notion that each 'hit' or viewing of the information should be considered a new publication that retriggers the statute of limitations"). Beaton attempts to distinguish *Ladd* because it involved defamation, whereas he asserted a claim for negligent infliction of emotional distress. We see no reason to distinguish *Ladd* on that basis. The same legal principle applies regardless of whether Beaton asserts defamation or negligent infliction of emotional distress as a

⁴ Respondents assert Beaton's negligence claim has not been recognized as a valid claim in Wisconsin. Because we dispose of this case on the statute of limitations grounds, we need not resolve this issue. See *Martinez v. Rullman*, 2023 WI App 30, ¶5, 408 Wis. 2d 503, 992 N.W.2d 853 (cases should be decided on the narrowest possible grounds).

result of readers accessing news reports that were published years earlier. New clicks on an old article do not restart the statute of limitations in a suit regarding the content of that article.

We conclude Beaton failed to file his suit within the applicable statute of limitations. Accordingly, the circuit court's dismissal order was not erroneous.⁵

Therefore,

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

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals

⁵ We need not address any additional arguments raised because our decision on the statute of limitations is dispositive. See *Gross v. Hoffman*, 227 Wis. 296, 300, 277 N.W. 663 (1938) (only dispositive issues need be addressed).