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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-1077**

Ronald Wolbert,
Appellant,

vs.

Commissioner of Public Safety, et al.,
Respondents,

Mille Lacs County,
Respondent,

City of Milaca, et al.,
Defendants.

**Filed March 17, 2014
Affirmed
Toussaint, Judge***

Ramsey County District Court
File No. 62-CV-12-8556

Ronald Wolbert, Milaca, Minnesota (pro se appellant)

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* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

Considered and decided by Stoneburner, Presiding Judge; Schellhas, Judge; and Toussaint, Judge.

UNPUBLISHED OPINION

TOUSSAINT, Judge

Appellant Ronald Wolbert challenges the district court's dismissal of his complaint, which alleged that various state entities and employees had failed to inform him of his obligation to register as a predatory offender after he pleaded guilty to criminal sexual conduct. Because the district court did not err in concluding that Wolbert's action is barred by the statute of limitations, we affirm.

FACTS

Wolbert pleaded guilty to fourth-degree criminal-sexual conduct in March 1995.¹ The district court stayed his sentence and placed him on probation for up to ten years. In May 2001, Wolbert contacted his probation officer about registering as a predatory offender, and the officer informed him that he was not required to register. Wolbert was discharged from probation one month later. No one, including the district court judge, the prosecutor, the Minnesota Department of Corrections (DOC), and the Mille Lacs County Sheriff's Department, ever told Wolbert he was required to register.

In 2005, after being arrested for impaired driving in South Dakota that July, a South Dakota sheriff sent Wolbert a letter informing him of his need to register in South Dakota as a sex offender. Wolbert contacted his former probation officer, and the officer

¹ Because the district court dismissed Wolbert's claims under Minn. R. Civ. P. 12, the facts in this section are based solely on the allegations made in his complaint.

told him he “absolutely did not need to register.” Sometime that year, the Minnesota Bureau of Criminal Apprehension (BCA) reported to the South Dakota Division of Criminal Investigation (DCI) that Wolbert was required to register. Wolbert registered in South Dakota on November 8, 2005.

When Wolbert returned to Minnesota the following summer, he went to the Mille Lacs County Sheriff’s Department to register. He assumed he had to register in Minnesota because he was required to in South Dakota. But before he completed the registration paperwork, a deputy told him that he did not need to register and was never required to register. Wolbert did not complete the registration process, and the deputy told him to return to the sheriff’s office if he ever received a call telling him he needed to register in Minnesota. Wolbert never received such a call.

Two years later, the BCA sent Wolbert a letter, notifying him that he was non-compliant with Minnesota registration requirements. The letter stated that he was required to register for 10 years because of his 1995 conviction and that the BCA would give him credit back to November 2005, when he registered in South Dakota, if he would complete registration in Minnesota. He was therefore required to be registered until November 2015, according to the letter.²

In January 2009, Wolbert moved the Mille Lacs County District Court to order that he is not required to register as a predatory offender in Minnesota. The district court denied his motion. Wolbert appealed, and we affirmed in an unpublished opinion.

² Wolbert claims that this was the first notice he received from Minnesota that he needed to register, but his complaint also refers to the letter the BCA sent to the DCI in 2005, which stated that he was required to register.

Wolbert v. State, No. A09-1127, 2010 WL 935465 (Minn. App. Mar. 16, 2010), *review denied* (Minn. May 26, 2010).

In November 2012, Wolbert sued respondents Minnesota Department of Public Safety, DOC, commissioners Mona Dohman and Tom Roy, and Mille Lacs County. He claimed negligence, negligent misrepresentation, and constitutional violations based on respondents' alleged failure to notify him of his obligation, under Minn. Stat. § 243.166 (2012), to register as a predatory offender. Respondents moved for dismissal. The district court granted their motions and dismissed Wolbert's complaint with prejudice because the court concluded that the applicable statute of limitations barred Wolbert's claims and, alternatively, that Wolbert had failed to state a claim on which relief can be granted. Wolbert appeals.

D E C I S I O N

Wolbert challenges the district court's dismissal of his complaint on several grounds, one of which is that the statute of limitations does not bar his claims. We review *de novo* the district court's application of statutes of limitation. *Sipe v. STS Mfg., Inc.*, 834 N.W.2d 683, 686 (Minn. 2013).

Wolbert's negligence and constitutional claims are subject to a six-year statute of limitations. *See* Minn. Stat. § 541.05, subd. 1(5) (2012); *Lickteig v. Kolar*, 782 N.W.2d 810, 815 (Minn. 2010) ("Negligence-based claims are generally subject to the 6-year limitation . . . without regard to delayed discovery." (citation omitted)); *Berg v. Groschen*, 437 N.W.2d 75, 77 (Minn. App. 1989) (holding that six-year limitations period applies to section 1983 claims). The statute of limitations begins to run when the cause of action

accrues. *Park Nicollet Clinic v. Hamann*, 808 N.W.2d 828, 832 (Minn. 2011). “A cause of action accrues when all of the elements of the action have occurred, such that the action could be brought and would survive a motion to dismiss for failure to state a claim.” *Id.*

Wolbert argues that his claims are not barred because the earliest they could have accrued is in 2008 when he received the BCA letter informing him that he needed to register. He asserts that he could not have brought his action until 2008 because that is when he was required to register and his damage occurred. Wolbert’s position is based on his belief that he had no obligation to register until the BCA told him to in 2008. But as we concluded in Wolbert’s prior appeal, he was required to register when he pleaded guilty in 1995. *Wolbert*, 2010 WL 935465, at *2. The 2008 letter therefore only notified him of the obligation he has carried since that time.

Based on the allegations in Wolbert’s complaint, his claims accrued and the statute of limitations began to run when respondents failed to inform him of his obligation to register or told him he did not need to register. The last time this happened, according to his complaint, was in July 2006. His claims therefore expired in July 2012 at the latest. Wolbert filed his suit four months later in November 2012. The district court did not err by concluding that Wolbert’s action is barred by the statute of limitations. Because we determine that the statute of limitations bars Wolbert’s claims, we need not address his remaining arguments.

Affirmed.