

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

**For the Seventh Circuit
Chicago, Illinois 60604**

Submitted April 5, 2023*

Decided April 7, 2023

Before

DAVID F. HAMILTON, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 22-3128

WALTER BROWN,
Plaintiff-Appellant,

v.

UNKNOWN PARTY,
Defendant-Appellee.

Appeal from the United States District
Court for the Southern District of Illinois.

No. 21-cv-1685-DWD

David W. Dugan,
Judge.

ORDER

Walter Brown filed this suit under 42 U.S.C. § 1983 well over two years after the events that he describes at Chester Mental Health Center ended. The district court invited him to explain why he did not comply with the two-year limitations period, and when it determined that he failed to do so adequately, it dismissed his suit as time-barred. Because Brown has not offered grounds to render his suit timely, we affirm.

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

Brown filed this suit in December 2021, asserting abuse and lack of medical care at Chester from July to September 2018. The district court reviewed Brown's complaint and ordered him to show cause why his claims should not be dismissed as untimely. *See* 28 U.S.C. § 1915A(a). It correctly explained that the applicable statute of limitations period for § 1983 actions is the forum state's limitations period for personal-injury torts. *See Woods v. Ill. Dep't of Child. & Fam. Servs.*, 710 F.3d 762, 766 (7th Cir. 2013). That period in Illinois is two years, *see id.*; 735 ILCS § 5/13-202, which gave Brown until September 2020 to sue. But he did not sue until December 2021, 15 months too late.

Brown insisted that he acted diligently. First, he said that he tried for three years to get legal assistance. Second, he asserted, his treatment center imposed COVID-19 restrictions through 2020 that kept him from learning about the time to sue.

The court dismissed Brown's complaint as untimely. Citing *Pace v. DiGuglielmo*, 544 U.S. 408, 418 (2005), it correctly explained that equitable tolling may be available if Brown can show that he was pursuing his rights diligently and some "extraordinary circumstance" prevented timely filing. But, the court ruled, his two assertions (that COVID-19 restrictions during 2020 kept him from learning about the filing deadline and that he had trouble finding a lawyer) were not extraordinary circumstances that warranted equitable tolling.

On appeal, Brown argues that he deserves equitable tolling based on the two circumstances that he cites, but we disagree. Typically, a district court's decision on tolling is reviewed for abuse of discretion, *see Famous v. Fuchs*, 38 F.4th 625, 630 n.17 (7th Cir. 2022), *cert. denied*, 143 S. Ct. 794 (2023), and the court here did not abuse its discretion. First, according to Brown, the COVID-19 restrictions existed only during 2020. At most, they disabled Brown from discovering the filing deadline during that one year. But under *Cada v. Baxter Healthcare*, 920 F.2d 446, 452–53 (7th Cir. 1990), once an obstacle that prevents filing a suit is removed (and Brown says that occurred in January 2021), a litigant must sue within a "reasonable time." Brown did not sue until December 2021, an unreasonable delay in this case. His other proffered reason for his late filing—his trouble finding a lawyer—was not itself an extraordinary obstacle that prevented him from timely suing on his own. As we have said, a "lack of representation is not on its own sufficient to warrant equitable tolling." *Socha v. Boughton*, 763 F.3d 674, 685 (7th Cir. 2014). Thus, the district court properly concluded that Brown was not entitled to equitable tolling.

AFFIRMED