

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

PHYNERRIAN Q. MANNING,
Appellant,

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED.

v.

CASE NO.: 1D04-0416

GUY TUNNELL, as sheriff of Bay
County Florida, BAY COUNTY and
CORRECTIONS CORPORATION OF
AMERICA,

Appellees.

_____ /

Opinion filed February 3, 2006.

An appeal from the Circuit Court for Bay County.
Judy Pittman, Judge.

Phynerrian Q. Manning, pro se.

Clifford C. Higby and Tiffany A. Brown of Bryant & Higby, Panama City, for
Appellees.

PER CURIAM.

Phynerrian Q. Manning appeals a final order dismissing with prejudice,
pursuant to the statute of limitations, section 95.11, Florida Statutes (2003), his
complaint against appellees, Guy Tunnell, as sheriff of Bay County, Florida, Bay

County, and the Corrections Corporation of America, in which he sought to state claims based upon alleged deprivations of his constitutional rights and false imprisonment. Appellant argues on appeal that the trial court erred in failing to apply the equitable tolling provision of 28 U.S.C. § 1367(d) to prevent the limitations period from expiring while he was pursuing claims in federal court. See Jinks v. Richland County, 538 U.S. 456, 123 S. Ct. 1667, 155 L. Ed. 2d 631 (2003). The appellant, however, did not raise the tolling provisions of 28 U.S.C. § 1367(d) before the trial court. As a general rule, an appellate court cannot address claims raised for the first time on appeal. See, e.g., Krasnick v. State, 780 So. 2d 1045, 1046 (Fla. 4th DCA 2001)(declining to consider state's laches defense, raised for the first time on appeal). Although there are exceptions to this rule, the exceptions are not applicable in the instant case. See DM Records, Inc. v. Turnpike Commercial Plaza, Phase II, Condominium Ass'n, Inc., 894 So. 2d 1030 (Fla. 4th DCA 2005)(explaining that sufficiency of the evidence to support the judgment may be raised for the first time on appeal in a non-jury trial); Romage v. State, 890 So. 2d 550 (Fla. 5th DCA 2005)(holding that claims based on an alleged violation of double jeopardy constitute fundamental error which, absent a knowing and voluntary waiver, may be raised for the first time on appeal); Bank One, N.A. v. Batronie, 884 So. 2d 346 (Fla. 2d DCA 2004)(indicating that the lack of subject-matter jurisdiction may be raised for the first

time on appeal). Accordingly, we affirm.

KAHN, C.J., VAN NORTWICK AND HAWKES, JJ., CONCUR.