

STATE OF MICHIGAN
COURT OF APPEALS

SIMONE T. JORDAN-EL,

Plaintiff-Appellant,

v

JACK KRAIZMAN,

Defendant-Appellee.

UNPUBLISHED

May 30, 2000

No. 213679

Wayne Circuit Court

LC No. 97-731199-CK

Before: Hoekstra, P.J., and Holbrook, Jr., and Zahra, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendant's motion for summary disposition under MCR 2.116(C)(7) on statute of limitations grounds. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff retained defendant to act as his attorney after he was convicted of first-degree criminal sexual conduct in a bench trial. Defendant represented plaintiff in his sentencing and on appeal. Defendant's final act of representation was a May 3, 1993 letter to plaintiff informing him of the Supreme Court's denial of his application for leave to appeal.

Plaintiff filed this action on September 30, 1997, alleging that defendant breached a promise to provide exhibits and discovery materials to plaintiff. The trial court found that plaintiff's action was for legal malpractice, and was barred by the two-year statute of limitations. MCL 600.5805(4); MSA 27A.5805(4).

Plaintiff asserts that his claim is based on breach of contract, and not malpractice. In determining whether an action is of a type subject to a particular statute of limitations, the Court must look at the basis of the plaintiff's allegations. *Aldred v O'Hara-Bruce*, 184 Mich App 488, 490; 458 NW2d 671 (1990). The type of interest allegedly harmed is the focal point in determining which limitation period controls. *Id.* Claims against attorneys brought on the basis of inadequate representation sound in tort and are governed by the malpractice statute of limitations, even though a plaintiff may assert that the attorney breached a contract. *Barnard v Dilley*, 134 Mich App 375; 350 NW2d 887 (1984).

Here, plaintiff alleged that defendant failed to provide him with discovery items and exhibits. These matters fall within the ambit of inadequate representation, and do not state a breach of contract claim. The trial court properly granted summary disposition pursuant to MCR 2.116(C)(7).

Affirmed.

/s/ Joel P. Hoekstra

/s/ Donald E. Holbrook, Jr.

/s/ Brian K. Zahra