

STATE OF MICHIGAN
COURT OF APPEALS

HENRY AVANT,

Plaintiff-Appellant,

v

DR. LABELLE,

Defendant,

and

DR. GOLDEN DENTAL CENTER,

Defendant-Appellee.

UNPUBLISHED

January 16, 2001

No. 218828

Wayne Circuit Court

LC No. 98-838462-NM

Before: Markey, P.J., and Whitbeck and J. L. Martlew*, JJ.

PER CURIAM.

Plaintiff Henry Avant appeals as of right the order granting defendant's motion for summary disposition in this medical malpractice action. We affirm. We decide this appeal without oral argument pursuant to MCR 7.214(E).

I. Basic Facts And Procedural History

Avant obtained dental treatment from Dr. Labelle's clinic. On June 17, 1995, Avant had seven teeth extracted. Avant's last treatment date was September 6, 1995. On December 1, 1998, Avant filed a complaint, asserting that the clinic was negligent in performing its professional duties and breached a contract of care. Dr. Labelle did not participate in the action.

The clinic moved for summary disposition, asserting that the action was barred by the two-year statute of limitations, which expired in September 1997. The clinic noted that Avant had retained counsel prior to the expiration of the statute of limitations and failed to file suit;

* Circuit judge, sitting on the Court of Appeals by assignment.

thus, the discovery rule did not apply.¹ Avant claimed that his action was for negligence and not medical malpractice; thus, the three-year statute of limitations applied. The trial court granted the clinic's motion, finding that Avant failed to file suit within the applicable two-year statute of limitations period.

II. The Statute Of Limitations

A. Standard Of Review.

Avant argues that, because dental malpractice is not medical malpractice, the three-year negligence statute of limitations applies. The clinic responds that the medical malpractice statute of limitations applies to anyone who is a licensed health care professional. Which statute of limitations applies is a question of law reviewed de novo.²

B. MCL 600.5838a; MSA 27A.5838(1)

MCL 600.5838a; MSA 27A.5838(1) applies the medical malpractice statute of limitations to licensed health care professionals as defined by article 15 of the Public Health Code. Dentists are licensed under the code.³ We conclude that the trial court properly found that this action was barred by the two-year medical malpractice statute of limitations.

Affirmed.

/s/ Jane E. Markey
/s/ William C. Whitbeck
/s/ Jeffrey L. Martlew

¹ MCL 600.5838a(2); MSA 27A.5838a(2).

² *McKiney v Clayman*, 237 Mich App 198, 201; 602 NW2d 612 (1999).

³ MCL 333.16601; MSA 14.15(16601).