

STATE OF MICHIGAN
COURT OF APPEALS

TYRUS L. TINNON,

Plaintiff-Appellant,

v

MAGRA, INC.,

Defendant-Appellee.

UNPUBLISHED

April 9, 2002

No. 229303

Wayne Circuit Court

LC No. 00-013216-NZ

Before: K. F. Kelly, P.J., and Doctoroff and Cavanagh, 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 filed an employment discrimination complaint on April 25, 2000. The three-year statute of limitations for personal injury actions is applicable to claims under the Civil Rights Act. *Mair v Consumers Power Co*, 419 Mich 74, 78; 348 NW2d 256 (1984). The limitations period begins to run when a plaintiff receives notification of the discriminatory action. *Sumner v Goodyear Tire & Rubber Co*, 427 Mich 505, 533; 398 NW2d 368 (1986).

Plaintiff's complaint states that he was notified of his termination on April 24, 1997. After defendant moved for summary disposition, plaintiff filed an affidavit contradicting the complaint, and asserting that he did not receive notice of his termination until April 26, 1997.

When reviewing a motion under MCR 2.116(C)(7), a court must consider all documentary evidence submitted by the parties. *Sewell v Southfield Public Schools*, 456 Mich 670, 674; 576 NW2d 153 (1998). The contents of the complaint must be accepted as true unless specifically contradicted by the affidavits or other appropriate documentation submitted by the movant. *Id.* While a moving party may use affidavits to contradict the complaint, there is no basis for allowing the party who drafted the complaint to disavow its contents.

A party may not create a question of fact by using an affidavit to contradict his prior testimony. *Downer v Detroit Receiving Hosp*, 191 Mich App 232, 234; 477 NW2d 146 (1991). Similarly, there is no basis for plaintiff to raise a factual issue by using an affidavit to contradict allegations in his own complaint.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Martin M. Doctoroff
/s/ Mark J. Cavanagh