

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WAYNE AVERILL,	§	
	§	No. 516, 2010
Plaintiff Below,	§	
Appellant,	§	Court Below–Superior Court of
	§	the State of Delaware in and for
v.	§	New Castle County
	§	
WILLIAM C. BRADLEY, JR., et al.,	§	
	§	
Defendants Below,	§	C.A. No. N10C-07-128
Appellees.	§	

Submitted: May 27, 2011

Decided: August 18, 2011

Before **HOLLAND, BERGER** and **JACOBS**, Justices.

**ORDER**

This 18<sup>th</sup> day of August 2011, upon consideration of the parties’ briefs and the Superior Court record, it appears to the Court that:

(1) In 2010, the plaintiff below/appellant, Wayne Averill, filed a civil complaint alleging that he was sexually abused by defendant below/appellee-William C. Bradley, Jr., between July 1990 and September 1998 (hereinafter “1990-1998 claims”) and again in March-April 2008 (hereinafter “2008 claims”). By “order upon initial review of complaint”

issued on July 16, 2010, the Superior Court summarily dismissed Averill's complaint as barred by the statute of limitations.<sup>1</sup>

(2) We affirm the Superior Court's summary dismissal of Averill's 1990-1998 claims as time-barred. On appeal, Averill has not demonstrated a legitimate basis to challenge the Superior Court's dismissal of those claims. On the record before this Court, however, it is not clear on what date Averill filed his 2010 complaint. Accordingly, we remand for a determination as to whether Averill's 2008 claims are time-barred.<sup>2</sup>

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED IN PART and REVERSED IN PART. This matter is REMANDED for further proceedings consistent with this Order. Jurisdiction is not retained.

BY THE COURT:

/s/ Carolyn Berger  
Justice

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<sup>1</sup> The Superior Court appeared to apply the statute of limitations under the "Child Victim's Act" enacted in 2007. *See* Del. Code Ann. tit. 10, § 8145 (Supp. 2010) (providing a two-year window between July 9, 2007 and July 9, 2009 for plaintiffs who had formerly been barred by the statute of limitations to bring a cause of action).

<sup>2</sup> *See* Del. Code Ann. tit. 10, § 8119 (1999) (providing for a two-year statute of limitations for personal injury actions).