

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KEVIN L. DICKENS,	§
	§ No. 277, 2001
Plaintiff Below-	§
Appellant,	§
v.	§ Court Below – Superior Court
	§ of the State of Delaware,
	§ in and for New Castle County
STANLEY TAYLOR, et al.,	§ C.A. No. 98C-10-328
	§
Defendants Below-	§
Appellees.	§

Submitted: February 11, 2002

Decided: March 25, 2002

Before **VEASEY**, Chief Justice, **HOLLAND** and **STEELE**, Justices.

ORDER

This 25th day of March 2002, upon consideration of the parties' briefs, their supplemental submissions, and the record below, it appears to the Court that:

(1) The plaintiff-appellant, Kevin Dickens, filed this appeal from an order of the Superior Court dated May 14, 2001. That final judgment dismissed Dickens' complaint against numerous State officials and employees on statute of limitations grounds. We have concluded that the Superior Court's judgment should be affirmed.

(2) Dickens' complaint alleged that he had been wrongly convicted in 1995 of misdemeanor charges arising from alleged threatening behavior toward Department of Labor employees. Among other things, his 1995 sentence prohibited him from

entering certain Department of Labor property. In August 1996, Dickens was convicted of terroristic threatening and criminal trespass for another incident at the Department of Labor offices.

(3) Dickens contended that he should have been released from prison on that sentence on October 16, 1996, but DOC officials falsely imprisoned him until October 29, 1996. On October 29, 1996, as a result of DOC's allegedly false imprisonment, Dickens refused to be locked into his cell. Dickens asserted that he was assaulted by prison guards and placed in administrative segregation. He was released from prison an hour later.

(4) Dickens filed his complaint, asserting claims of false imprisonment, libel, assault and civil rights violations, on October 30, 1998. His complaint requested monetary damages. The State filed a motion to dismiss Dickens' complaint on the grounds that all of his claims were barred by the two-year statute of limitations found in Section 8119 of Title 10 of the Delaware Code. The State asserted that the last act Dickens complained of occurred on October 29, 1996, the day he was released from prison. Since Dickens' complaint, filed on October 30, 1998, the State argued that it was not filed within the two-year statutory limitations period. In response, Dickens asserted that, given the pendency of an appeal from his 1996 conviction and his

continued ban from Department of Labor property, the last complained-of act did not occur on October 29, 1996 but, in fact, the injurious acts are ongoing.

(5) In the alternative, Dickens asserted that, even if the two-year limitations period began to run as of October 29, 1996, he put his complaint in the mail on October 27, 1998. Therefore, according to Dickens, his complaint should be deemed timely filed.

(6) After considering the parties' briefs, this Court requested further explanation from Dickens concerning his allegations that the injuries he allegedly suffered are ongoing and, therefore, have extended the two-year statute of limitations. Having reviewed the parties' original and supplemental submissions very carefully, we find no merit to Dickens' appeal. It is clear from Dickens' complaint that his allegations of injury stem from the alleged assault by correctional officials on October 29, 1996. Although Dickens asserts that he has suffered other consequences as a result of that incident, those consequences cannot, as Dickens asserts, extend the statutory limitations period for personal injury claims beyond the two-year period established by law. There is no legal support for Dickens' contention that his filing an appeal from his criminal conviction somehow tolled the statute of limitations on his personal injury claims.

(7) Based on the factual allegations in Dickens' complaint, the Superior Court properly held that the last complained-of act occurred on October 29, 1996. Accordingly, the applicable two-year statute of limitations began to run as of that date. Dickens' argument that his complaint should be deemed filed as of the date he mailed it is contrary to well-established Delaware law.¹ The United States Supreme Court's decision in *Houston v. Lack*,² upon which Dickens relies, is not controlling on this issue.

(8) The record reflects that the Superior Court properly ruled against each of Dickens' contentions and concluded that all of his claims were all barred by the applicable two-year statute of limitations. Accordingly, we have determined that the judgment of the Superior Court should be affirmed for the reasons stated in the Superior Court's decision dated May 14, 2001.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is **AFFIRMED**.

BY THE COURT:

/s/ Randy J. Holland
Justice

¹ *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

² 487 U.S. 266 (1988).