



Christian Parler appeals the district court's order dismissing his Title VII employment-discrimination action as time-barred. The Equal Employment Opportunity Commission sent Parler a right-to-sue letter dated July 13, 2007. Ninety-seven days later, on October 18, 2007, Parler filed suit. He asserted that he had not received the right-to-sue letter until July 27, 2007. Defendants moved to dismiss Parler's complaint as untimely, see 42 U.S.C. § 2000e-5(f)(1) (plaintiff has ninety days from receipt of right-to-sue letter to file suit). The district court granted the motion, applying the presumption that Parler received the right-to-sue letter three days after the date on the letter and concluding that Parler failed to rebut the presumption.

Given the procedural posture of this case, see Luney v. SGS Auto. Servs., 432 F.3d 866, 867 (8th Cir. 2005) (motion to dismiss reviewed de novo, taking all facts alleged in complaint as true), we find that Parler's assertions that he received the letter on July 27, were sufficient to withstand a dismissal motion based on the application of a three-day presumption.

Therefore, we vacate the dismissal and remand the case to the district court.

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