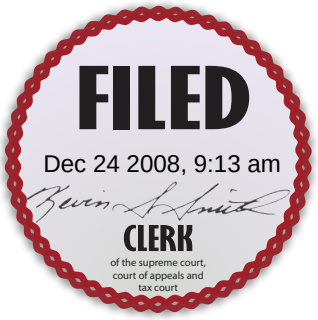

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IN THE
COURT OF APPEALS OF INDIANA

SHARON ELAINE EDWARDS,	)	
ANTOINETTE ELAINE EDWARDS,	)	
JOHN MILTON EDWARDS, III,	)	
	)	
Appellants-Plaintiffs,	)	
	)	
vs.	)	No. 49A02-0802-CV-125
	)	
MARTIN GARY GROFF, Ph.D.,	)	
	)	
Appellee-Defendant.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable S. K. Reid, Judge
Cause No. 49D12-0708-CT-3292

December 24, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Sharon Edwards appeals the trial court's dismissal of her medical malpractice claim. We affirm.

Issue

Edwards raises multiple issues on appeal, but we find only one dispositive: whether the proposed medical malpractice complaint filed in 2007 was timely.

Facts

Edwards filed a proposed medical malpractice complaint on her behalf and on behalf of her two adult children, Antoinette and John, against Martin Gary Groff, Ph.D. on May 10, 2007. Dr. Groff performed a court-ordered psychological evaluation of the children in 1986 during a child custody matter. Edwards now alleges that Groff was colluding with a corrupt judge and filed a false report, which forced her and her children to endure years of violence and abuse at the hands of her ex-husband. The proposed complaint seems to allege that Dr. Groff performed an improper examination, failed to diagnose Edwards as a victim of domestic abuse, and refused to produce copies of his reports.

Dr. Groff filed a motion for preliminary determination and dismissal on August 8, 2007. The trial court conducted a hearing on the motion on November 28, 2007. Edwards appeared, but Antoinette and John did not attend. Dr. Groff argued that the medical malpractice claim was untimely and that Dr. Groff was acting in an official capacity in performing the court ordered evaluation and would be subject to judicial immunity. Edwards argued Dr. Groff's examination of her children led them to be

subjected to years of abuse. She contended that she did not discover Dr. Groff's failures and the conspiracy until nearly twenty years later because she was suffering from abuse and mental illness.

The trial court granted Dr. Groff's motion for preliminary determination and dismissed Edwards' proposed complaint. Edwards filed a motion to correct error, which was denied. This appeal followed.

Analysis

A motion for preliminary determination of law is a procedure unique to Indiana's Medical Malpractice Act that authorizes a trial court to assert jurisdiction over specific issues before a medical review panel has acted. See Ind. Code § 34-18-11-1. Our standard of review for such motions is well settled:

> A motion for preliminary determination, when accompanied by evidentiary matters, is akin to a motion for summary judgment and is subject to the same standard of appellate review as any other summary judgment disposition. Upon review of a summary judgment determination, we apply the same standard applied by the trial court: where the evidence shows that there are no genuine issues of material fact and the moving party is entitled to a judgment as a matter of law, summary judgment is appropriate. We construe all facts and reasonable inferences drawn therefrom in a light most favorable to the non-moving party.

Fairbanks Hosp. v. Harrold, 895 N.E.2d 732, 735 (Ind. Ct. App. 2008) (quoting Battema v. Booth, 853 N.E.2d 1014, 1018-19 (Ind. Ct. App. 2006)).

Indiana's Medical Malpractice Act's two-year occurrence-based statute of limitations runs from the date of the negligent act or omission and is constitutional on its face. Herron v. Anigbo, No. 45S03-0811-CV-594, slip op. at 4 (Ind. Nov. 13, 2008).

However, the statute will not "bar the claim of a patient who could not reasonably be expected to learn of the injury within the two-year period" or is "unable in the exercise of 'reasonable diligence' to attribute it to medical malpractice." Id. Even in such circumstances, however, a plaintiff is expected to file the action within a reasonable time after the trigger-date—the critical date on which the patient knows of the malpractice and resulting injury or learns facts that in the exercise of reasonable diligence should lead to the discovery of the malpractice and resulting injury. Id. In the case of the children's treatment, the Medical Malpractice Act provides that a minor less than six years of age has until his or her eighth birthday to file. See I.C. § 34-18-7-1.

Dr. Groff evaluated Edwards in either October or November of 1986. Any claim against Dr. Groff should have been brought within two years—sometime in 1988. Edwards repeatedly attempted to obtain Dr. Groff's report in 1987, so any claims that she was too mentally ill to realize this alleged malpractice for nearly two decades fails. During the hearing, Edwards testified that she knew enough back then to know that she was "not crazy." Tr. p. 18. At the time of Dr. Groff's examination, she was working as a registered nurse and was able to support her children and herself. Clearly, Edwards was not severely incapacitated during this time. Still, she did not file her claim until May 2007, approximately 19 years too late. The claims on behalf of her children are much too late as well. The trial court properly granted Dr. Groff's motion for preliminary determination and dismissal.

Edwards makes a panoply of additional arguments in her brief regarding civil rights violations, violations of the Americans with Disabilities Act, and numerous federal

criminal conspiracy charges. These additional arguments are waived for several reasons. First, these arguments were not presented to the trial court and are presented for the first time on appeal. Grathwohl v. Garrity, 871 N.E.2d 297, 302 (Ind. Ct. App. 2007) ("If a party does not present an issue or argument to the trial court, appellate review of the issue or argument is waived.") Second, the arguments are not sufficiently developed with cogent reasoning. See Ind. Appellate Rule 46(A)(8)(a). Third and finally, Edwards does not support these argument with cites to relevant authority. See id. These inadequacies in her argument are not ignored because of her pro se status. Pro se litigants are held to the same standard as trained counsel and are required to follow procedural rules. Evans v. State, 809 N.E.2d 338, 344 (Ind. Ct. App. 2004).

Conclusion

Edwards's proposed complaint is barred by the statute of limitations. The trial court properly dismissed it. We affirm.

Affirmed.

BAILEY, J., and MATHIAS, J., concur.