

STATE OF MICHIGAN
COURT OF APPEALS

RASHAWN CUNNINGHAM,

Plaintiff-Appellant,

v

DETROIT RECEIVING HOSPITAL AND
UNIVERSITY HEALTH CENTER, DETROIT
RECEIVING HOSPITAL EMERGENCY ROOM,
P.C., KEVIN R. MCDONALD, M.D., DR.
ABBOTT, DR. JACOB AGRIS, and DR. PATTI
LYNN PETERSON,

Defendants-Appellees.

UNPUBLISHED

May 29, 2001

No. 220997

Wayne Circuit Court

LC No. 98-806039-NM

Before: McDonald, P.J., and Smolenski and K.F. Kelly, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendants' motion for summary disposition in this medical malpractice action. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff alleged that defendants committed acts of malpractice in treating him for a gunshot wound sustained on August 27, 1995. The last date of treatment was September 6, 1995. Plaintiff served a notice of intent to sue on August 26, 1997, extending the statute of limitations to March 7, 1998. A complaint was filed on February 25, 1998, but affidavits of merit were not signed until May 4 and May 12, 1998. The trial court granted defendants summary disposition based on plaintiff's failure to file the affidavits within the statute of limitations, relying on this Court's decision in *Scarsella v Pollak*, 232 Mich App 61; 591 NW2d 257 (1998).

In *Scarsella v Pollak*, 461 Mich 547; 607 NW2d 711 (2000), the Supreme Court adopted this Court's decision, and held that the statute of limitations is not tolled by a medical malpractice complaint that is not accompanied by an affidavit of merit. Following the Supreme Court's decision, the statute of limitations expired before plaintiff filed his affidavit of merit.

Accordingly, the trial court properly dismissed the action.

Affirmed.

/s/ Gary R. McDonald
/s/ Michael R. Smolenski
/s/ Kirsten Frank Kelly