

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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DALTON SANDERS,  
Plaintiff-Appellant,

v

DEPARTMENT OF CORRECTIONS, ROBERT  
BROWN, JR., as former Director of the  
Department of Corrections, LYNN GREEN,  
M.D., as former Deputy Director of the  
Department of Corrections Bureau of Health  
Services, DEAN RIEGER, M.D., GLORIA  
SMITH, D.D.S., and WILLIAM J. BYLAND,  
D.D.S.,

Defendants-Appellees.

UNPUBLISHED  
December 27, 2002

No. 237576  
Wayne Circuit Court  
LC No. 89-931148-CZ

Before: Bandstra, P.J., and Murphy and Griffin, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order dismissing his claims against defendants. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, plaintiff challenges only the trial court's decision with respect to defendants' motion for summary disposition on statute of limitations grounds. See MCR 2.116(C)(7). Generally, we review such matters de novo, giving consideration to affidavits, depositions, admissions, and other documentary evidence filed by the parties, to determine whether they indicate that the claim is time-barred. See *Smith v YMCA of Benton Harbor/St Joseph*, 216 Mich App 552, 554; 550 NW2d 262 (1996); see also *DiPonio Construction Co, Inc v Rosati Masonry Co, Inc*, 246 Mich App 43, 46-47; 631 NW2d 59 (2001). However, the record here clearly shows that the trial court did not rule against plaintiff on this issue. The trial court specifically stated that the "motion for summary disposition based on [MCR 2.116(C)(7)] is denied" and further generally concluded that "this matter was timely filed." Following that ruling from the bench, plaintiff stipulated to a dismissal of the claims remaining against defendants, apparently for the purpose of filing this appeal.

Considering this record, we are at a loss in determining the basis for this appeal. To the extent that plaintiff might be arguing that the logic of the trial court's reasoning in ruling in

plaintiff's favor on the statute of limitations issue did not go far enough, that argument is not preserved for appeal. See *Booth Newspapers, Inc v University of Michigan Bd of Regents*, 444 Mich 211, 234 n 23; 507 NW2d 422 (1993) (arguments raised for the first time on appeal are not properly preserved). Clearly, defendants' motion for summary disposition on the statute of limitations issue was denied in its entirety. Had defendants nonetheless concluded that the trial court's reasoning would have supported their position in a renewed motion for summary disposition with respect to claims regarding their actions earlier than the November 2, 1986, promotion of defendant Dr. Gloria Smith, they could have renewed their motion and afforded the trial court an opportunity to consider that argument.<sup>1</sup> Had that occurred, presumably plaintiff would have raised the arguments now first raised on appeal. Instead, however, plaintiff voluntarily dismissed his action against defendant. In light of that, plaintiff's arguments on appeal are not properly preserved for our consideration.

We affirm.

/s/ Richard A. Bandstra

/s/ William B. Murphy

/s/ Richard Allen Griffin

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<sup>1</sup> However, plaintiff's complaint is limited to "loss of promotional opportunity" and associated lost potential income and status.