

Circuit Court for Baltimore City
Case No. 24C19-000989

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1593

September Term, 2019

MORGAN WILLEY

v.

BALTIMORE CITY BOARD OF SCHOOL
COMMISSIONERS ET AL.

Graeff,
Beachley,
Wells,

JJ.

Opinion by Graeff, J.

Filed: October 16, 2020

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Morgan Willey, appellant, filed a complaint for wrongful termination against her former employer, Baltimore City Board of School Commissioners (“BSBSC”) and Baltimore City Public Schools (“BCPS”), appellees, in the Circuit Court for Baltimore City. Appellees filed a motion to dismiss, alleging that the complaint was filed more than three years after the date of her termination, and therefore, it was barred by the statute of limitations. The circuit court granted appellees’ motion to dismiss. It then denied appellant’s motion to alter or amend the judgment.

On appeal, appellant presents the following questions for this Court’s review, which we have rephrased slightly, as follows:

1. Did the circuit court err in dismissing appellant’s complaint by relying on a clerical error contained in an Exhibit attached to the appellant’s complaint?
2. Did the circuit court err in failing to apply the judicial tolling exception to appellant’s claims?

For the reasons set forth below, we shall reverse the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND¹

On February 21, 2019, Ms. Willey filed a complaint in the Circuit Court for Baltimore City against appellees. She alleged two counts of wrongful termination, one count alleging that she was terminated based on her action in seeking workers’

¹ Because this is an appeal from a ruling dismissing the complaint, the factual background is based on the parties’ pleadings, exhibits, and arguments from the motion to dismiss hearing.

compensation benefits for physical injuries she incurred when she was “breaking up a fight between students,” and a second count alleging that she was terminated based on racial discrimination.² She alleged that, on January 20, 2018, she became aware of her claim against her former employer.

Ms. Willey attached to her Complaint Exhibit B, a Notice of Claim and Settlement Proposal that her attorney sent to appellees. In this document, Ms. Willey stated that she was employed by appellees during the 2014 and 2015 school year, and during that time she was injured while intervening in several fights between students. The document stated that, “on or about June 30, 2015, [she] was stunned to learn that BCPS was unlawfully terminating her employment.” It stated that, in January 2018, Ms. Willey “became aware of the issues that have prompted this demand for settlement, as she had believed that her prior workers compensation claim was the only remedy available to her.”

On May 22, 2019, appellees filed a motion to dismiss Ms. Willey’s complaint. They asserted that, pursuant to Md. Code Ann., Cts. & Jud. Proc. (“CJP”) § 5-101 (2014), Ms. Willey’s claim was barred by the three-year statute of limitations. They argued that, even though there obviously was more than three years between the alleged wrongdoing in

² Ms. Willey alleged that she is Caucasian and the school where she worked was “a predominately African American [s]chool, including student body and staff.”

2014/2015 and the filing of the complaint in 2019, Ms. Willey failed to identify any grounds that her claim was not time-barred.³

On June 11, 2019, Ms. Willey filed a response to appellees' motion to dismiss. She argued that the statute of limitations did not begin to run until January 20, 2018. She stated that she filed her workers' compensation claim on December 10, 2014, and because she was receiving benefits from that claim, she was not aware of her termination until January 20, 2018. Ms. Willey argued that it would "defy logic that [her] unlawful termination claim could accrue prior to the expiration of her workers' compensation benefits, the very same benefits she was terminated for receiving." Accordingly, she asserted that her complaint was timely filed.

Ms. Willey then argued that, even if the statute of limitations generally would bar her claim, the tolling exception to the defense of the statute of limitations applied to her case. She asserted that the judicial tolling exception allows a plaintiff to file a claim after the statute of limitations has run in limited circumstances where the case was filed timely, but in an incorrect forum. *See Bertonazzi v. Hillman*, 241 Md. 361, 378 (1966). Ms. Willey noted that she filed her claims with the Workers' Compensation Commission in 2014, and she argued that the claims in her complaint "related back" to the filing in that "alternative forum."

³ The motion also argued that BCPS is not a legal entity subject to suit, and therefore, the claims against it should be dismissed. The court agreed and dismissed the claims against BCPS on this additional ground. No appeal was taken from the court's ruling in this regard.

On July 12, 2019, the circuit court held a hearing on appellees' motion to dismiss. Appellees asserted that there was no dispute that the date of termination was June 30, 2015. Counsel for Ms. Willey disagreed, asserting that there was a "huge dispute" regarding when Ms. Willey was terminated. Counsel stated that, "[a]t some point in time, she's not sure when, she was terminated She was under the impression she was still receiving [Workers' Compensation] benefits," and after she finished treatment, she would continue her job. Counsel asserted that Ms. Willey first learned that she was terminated in January 2018. Accordingly, counsel argued that her claim did not accrue for statute of limitations purposes until January 2018, and the Complaint filed in February 2019 was timely.

The circuit court noted that the exhibit Ms. Willey attached to the complaint stated that, on June 30, 2015, she "was stunned to learn that BCPS was unlawfully terminating her employment." Counsel for Ms. Willey stated he "may have written that wrong," and he asserted that the complaint clarified that Ms. Willey learned about her termination in 2018.⁴ Alternatively, counsel argued that, even if the statute of limitations had run, the case "should be judicially tolled" because the action had been filed in another tribunal. He argued that the Workers' Compensation claim gave appellees notice that there was a claim pending.

At the end of the hearing, the court granted the motion to dismiss. It found that the complaint was barred by the statute of limitations, noting that Exhibit B said that Ms.

⁴ Counsel suggested that, in 2018, she received a letter alleging that she was terminated in June 2015.

Willey learned in 2015 that BCPS was unlawfully terminating her employment. It also stated that Ms. Willey's argument that the statute of limitations would be tolled based on the filing of the workers' compensation claim was not persuasive, noting that the workers' compensation claim was completely unrelated to the claim that she had been unlawfully terminated. Accordingly, the workers' compensation claim did not put appellees on notice of a potential wrongful termination claim.

On July 19, 2019, Ms. Willey filed a motion to alter or amend the judgment. On August 13, 2019, the circuit court denied Ms. Willey's motion.

This appeal followed.⁵

STANDARD OF REVIEW

We review a court's decision to grant a motion to dismiss for "legal correctness." *Rounds v. Maryland-Nat. Capital Park & Planning Comm'n*, 441 Md. 621, 635 (2015). We apply "the same standard [as the circuit court] and assesses whether that decision was legally correct." *Patton v. Wells Fargo Fin. Maryland, Inc.*, 437 Md. 83, 95 (2014).

DISCUSSION

Ms. Willey contends that the circuit court erred in dismissing the complaint "without permitting an amendment and in reliance solely on a clerical error contained in an [e]xhibit attached to [her] Complaint."⁶ She asserts that the court's decision was not legally correct

⁵ Appellees filed a motion to dismiss the appeal as untimely filed, but they withdrew that motion at oral argument.

⁶ Counsel acknowledged at oral argument that there was no request to amend the Complaint.

because the Complaint clearly states that the date of injury was January 20, 2018, and she denied in her response to the request for admissions that her employment ended in 2015.

Appellees contend that the circuit court properly dismissed the complaint as time-barred. They argue that Ms. Willey expressly alleged that she was terminated on June 30, 2015, which was more than three years before her February 2019 complaint alleging wrongful termination.

CJP § 5-101 provides: “A civil action at law shall be filed within three years from the date it accrues unless another provision of the Code provides a different period of time within which an action shall be commenced.” As appellees assert, a claim typically accrues “when the plaintiff suffers the actionable harm.” *Rounds*, 441 Md. at 654.

Here, as the trial court noted, an exhibit filed with the complaint, a settlement proposal sent to the City on February 2018, states: “On or about June 30, 2015, Ms. Willey was stunned to learn that BCPS was unlawfully terminating her employment.” Counsel for Ms. Willey stated, however, that he “may have written that wrong,” and there was a “huge factual dispute as to when” she was terminated. He stated that the complaint alleged that Ms. Willey learned that she was terminated in January 2018, and that was the accrual date for the statute of limitations.

“In deciding a motion to dismiss a complaint, a circuit court assumes the truth of the complaint’s factual allegations, and any reasonable inferences, in the light most favorable to the plaintiff.” *Patton*, 437 Md. at 95. “[A] motion to dismiss ordinarily should not be granted by a trial court based on the assertion that the cause of action is barred by

the statute of limitations unless it is clear from the facts and allegations on the face of the complaint that the statute of limitations has run.” *Litz v. Md. Dep’t. of Env’t*, 434 Md. 623, 641 (2013). “When it is necessary to make a factual determination to identify the date of accrual, however, those factual determinations are generally made by the trier of fact, and not decided by the court as a matter of law.” *Id.*

It may ultimately be the case that there is evidence that Ms. Willey was terminated in June 2015, and her complaint is barred by the statute of limitations. Given the lack of such evidence at this stage of the proceedings, and the alleged dispute of fact on this issue, however, the court erred in granting the motion to dismiss.⁷

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE CITY REVERSED.
COSTS TO BE PAID BY APPELLEES.**

⁷ We do agree with the circuit court that the tolling exception discussed in *Swam v. Upper Chesapeake Medical Center, Inc.*, 397 Md. 528, 542–44 (2007); *Philip Morris USA, Inc. v. Christensen*, 394 Md. 227, 238–39 (2006), *abrogated on other grounds*, 435 Md. 207 (2013); and *Bertonazzi v. Hillman*, 241 Md. 361, 366–68 (1966), is not warranted in this case. As the circuit court noted, a workers’ compensation claim does not put appellees on notice of a wrongful termination claim, which is an entirely different claim.