[DO NOT PUBLISH]

In the

United States Court of Appeals

For the Eleventh Circuit

No. 22-11813

Non-Argument Calendar

EDWARD STALEY,

Plaintiff-Appellant,

versus

SEXUAL OFFENDER REGISTRATION REVEW BOARD, et al.,

Defendants,

SHERIFF, FULTON COUNTY GEORGIA,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:19-cv-05606-VMC

Before JILL PRYOR, LUCK, and ANDERSON, Circuit Judges.

PER CURIAM:

Georgia's Sexual Offender Registration Review Board (the "Board") determined that Edward Staley, a convicted sexual offender, qualified as a sexually dangerous predator under Georgia law. As a result, Staley was required to comply with the restrictions that Georgia law imposes on sexually dangerous predators.

In this lawsuit, Staley sued the Board and others under 42 U.S.C. § 1983, challenging his classification as a sexually dangerous predator. The district court dismissed Staley's claims as time-barred. After careful consideration, we affirm.

I.

Under Georgia law, individuals who have been convicted of listed sexual offenses are designated as "sexual offender[s]" and generally must register with law enforcement each year and comply with other restrictions, including geographic limitations on where they may live, work, or volunteer. *See* O.C.G.A. §§ 42-1-12(a)(20), (f); 42-1-15(b), (c). Georgia imposes a more stringent set of restrictions on those sexual offenders who are designated as "sexually dangerous predator[s]." *See generally id.* § 42-1-14. The Board

designates a sexual offender as a sexually dangerous predator if it finds that he is "at risk of perpetrating any future dangerous sexual offense." *Id.* § 42-1-12(a)(21)(B).[1] An individual designated as a sexually dangerous predator must wear an "electronic monitoring system" while on probation or parole. *See id.* § 42-1-14(e); *Park v. State*, 825 S.E. 147, 158 (Ga. 2019).[2] He must report in person to law enforcement at least twice per year, which is more frequent than the reporting requirement for other sexual offenders, who generally must report only once per year. *See* O.C.G.A. §§ 42-1-12(f)(4); 42-1-14(f). In addition, an individual designated as a sexually dangerous predator cannot work or volunteer within 1,000 feet of any area in which minors congregate, a geographic restriction that does not apply to other sexual offenders. *See id.* § 42-1-15(c)(2).

---

[1] Georgia law sets forth a list of crimes that qualify as "dangerous sexual offenses." *See* O.C.G.A. § 42-1-12(a)(10). For purposes of this appeal, the list of qualifying crimes included aggravated assault, rape, aggravated sodomy, aggravated child molestation, and aggravated sexual battery, as well the attempt to commit these offenses. *Id.* § 42-1-12(a)(10)(A).

[2] Section 42-1-14(e) states that a sexually dangerous predator is subject to electronic monitoring for life. But the Georgia Supreme Court has held that the statute is unconstitutional to the extent that it requires electronic monitoring for individuals "who are no longer serving any part of their sentences." *Park*, 825 S.E.2d at 157–58. We thus understand that individuals designated as sexually dangerous predators are required to wear electronic monitoring systems only while on probation or parole.

Under Georgia law, when the Board determines that a person qualifies as a sexually dangerous predator, it must notify the person of its decision. *Id.* § 42-1-14(a). The person then has 30 days to submit to the Board a petition for reevaluation and 60 days to present additional information to support his petition. *Id.* § 42-1-14(b). If an individual designated as a sexually dangerous predator fails to submit a petition for reevaluation or supporting documents within these time periods, the Board's classification decision becomes final. *Id.*

After the Board's decision becomes final, an individual classified as a sexually dangerous predator may file a petition in superior court seeking judicial review of the Board's decision. *Id.* § 42-1-14(c). This petition must be filed within 30 days of the Board notifying him of its final decision. *Id.* In reviewing the petition, the court considers the Board's classification decision. *Id.* The court also may consider other evidence submitted by the parties and hold a hearing. *Id.* If the court finds by a preponderance of the evidence that the individual was not appropriately classified as a sexually dangerous predator, it may reclassify him. *Id.*

The Board classified Staley as a sexually dangerous predator. He previously had been convicted of multiple counts of child molestation and spent several decades in prison in Georgia. In January 2015, Staley was released from prison and began to serve a term of probation. Shortly after his release, Staley was arrested for violating the terms of his probation. While Staley was incarcerated for the

probation violation, the Board initiated a review to determine whether he qualified as a sexually dangerous predator.

A licensed counselor working as a clinical evaluator for the Board assessed Staley's risk of reoffending. After reviewing records from various law enforcement agencies about Staley, but without interviewing him, she concluded that he had a high risk of reoffending and recommended that the Board classify him as a sexually dangerous predator. The Board accepted the counselor's recommendation and classified Staley as a sexually dangerous predator.

In May 2015, the Board notified Staley of its decision to classify him as a sexually dangerous predator. When the Board notified Staley of its classification decision, it informed him of the deadlines to petition the Board for revaluation of its decision and to submit additional information to support his petition.

Staley timely petitioned the Board for a reevaluation. He also asked that the Board extend the 60-day deadline for him to submit additional information regarding his classification and requested a hearing before the Board. The Board rejected Staley's request to extend the deadline for submitting additional information and denied his request for a hearing. When it denied these requests, it warned him that if he failed to submit additional documents in support of his request for reevaluation by the 60-day deadline, the Board's decision would become final. After Staley failed to submit additional documentation by the deadline, the Board's decision classifying Staley as a sexually dangerous predator became final.

In August 2015, Staley filed a petition in Fulton County Superior Court seeking judicial review of the Board's decision to classify him as a sexually dangerous predator. *See id.* § 42-1-14(c). On February 3, 2016, the court dismissed Staley's petition. The court concluded that the petition was untimely because Staley filed it more than 30 days after the Board notified him that its classification decision had become final. The court also ruled, in the alternative, that even if Staley's petition had been timely, he was not entitled to relief because the Board's classification of him as a sexually dangerous predator was "amply supported." Doc. 9-1 at 12.[3]

In November 2019, Staley was released from incarceration. Due to his status as a sexually dangerous predator, he was required to submit to electronic monitoring. Because he resided in Fulton County, the Fulton County sheriff was responsible for overseeing the monitoring.

In December 2019, Staley filed this lawsuit. In the operative complaint, he named as defendants the Board; Jenitha Gouch, the Board's chairperson; and Theodore Jackson, the Fulton County sheriff. He brought claims against these defendants under 42 U.S.C. § 1983. He alleged that the determination that he was a sexually dangerous predator was "arbitrar[y]" and that the Board had improperly denied his request for a hearing. Doc. 43 at ¶ 16. He sought injunctive relief to stop the defendants from continuing to designate him as a sexually dangerous predator and from requiring

---

[3] "Doc." numbers refer to the district court's docket entries.

him to comply with the sexually-dangerous-predator restrictions. He also sought related declaratory relief.

The Board and Gouch filed a motion to dismiss, arguing that Staley's claims were barred by the statute of limitations. Jackson initially filed an answer and then moved for judgment on the pleadings, raising the same timeliness argument as the other defendants.

The district court granted the defendants' motions. According to the district court, Staley claimed he had been "improperly classified without a due process hearing." Doc. 60 at 12. The court explained that, "[a]t the very latest," Staley was aware of the facts giving rise to his claims as of February 3, 2016, when the state court dismissed his petition for judicial review of the Board's decision. *Id.* Because Staley waited more than two years from the date of the state court decision to file suit, the district court concluded, his claims were untimely.

This is Staley's appeal.

II.

We review *de novo* the grant of a motion to dismiss, accepting the complaint's factual allegations as true and construing them in the light most favorable to the plaintiff. *See Glover v. Liggett Grp., Inc.*, 459 F.3d 1304, 1308 (11th Cir. 2006). Similarly, we review *de novo* the grant of a motion for judgment on the pleadings, "accept[ing] as true all material facts alleged in the non-moving party's pleading" and "view[ing] those facts in the light most favorable to the non-moving party." *Perez v. Wells Fargo N.A.*, 774 F.3d

1329, 1335 (11th Cir. 2014). A district court's application of statutes of limitations is likewise subject to *de novo* review. *Ctr. for Biological Diversity v. Hamilton*, 453 F.3d 1331, 1334 (11th Cir. 2006).

III.

The question in this appeal is whether the district court erred in granting the motions to dismiss and for judgment on the pleadings based on its determination that the statute of limitations barred Staley's claims. In analyzing this issue, we must keep in mind that this case is at the pleadings stage. "A statute of limitations bar is an affirmative defense," and a plaintiff is "not required to negate an affirmative defense in [its] complaint." *La Grasta v. First Union Secs., Inc.*, 358 F.3d 840, 845 (11th Cir. 2004) (internal quotation marks omitted). Still, a dismissal based on the statute of limitations is appropriate at the motion-to-dismiss or motion-for-judgment-on-the-pleadings stage when "it is apparent from the face of the complaint that the claim is time-barred." *Id.* (internal quotation marks omitted).[4]

---

[4] In reviewing the statute-of-limitations issue, we have considered the facts as set forth in Staley's second amended complaint, which is the operative complaint. We also have reviewed the state court's order dismissing Staley's petition for review of the Board's decision. Although the state court's order was not attached to the operative complaint, we may consider this document because it was "referred to in the [operative] complaint, central to [Staley's] claim[s], and of undisputed authenticity." *Luke v. Gulley*, 975 F.3d 1140, 1144 (11th Cir. 2020) (internal quotation marks omitted).

Here, the parties agree that a two-year statute of limitations applied to Staley's § 1983 claims. But they disagree about when Staley's claims accrued and the limitations period began to run.

To determine when Staley's § 1983 claims accrued, we look to federal law. *See Rozar v. Mullis*, 85 F.3d 556, 561 (11th Cir. 1996). "The general federal rule is that the statute of limitations does not begin to run until the facts which would support a cause of action are apparent or should be apparent to a person with a reasonably prudent regard for his rights." *Id.* at 561-62 (alteration adopted) (internal quotation marks omitted).

Staley argues that the continuing violation doctrine applies to his claims. "The continuing violation doctrine permits a plaintiff to sue on an otherwise time-barred claim when additional violations of the law occur within the statutory period." *Ctr. for Biological Diversity*, 453 F.3d at 1334. "The critical distinction in the continuing violation analysis is whether the plaintiff complains of the present consequence of a one time violation, which does not extend the limitations period, or the continuation of that violation into the present, which does." *Lovett v. Ray*, 327 F.3d 1181, 1183

In addition, we note that the district court considered the state court order when granting the motions to dismiss and for judgment on the pleadings. Because Staley has not argued on appeal that it was improper for the district court to have considered the state court order at this stage, he has forfeited this issue. *See United States v. Campbell*, 26 F.4th 860 (11th Cir. 2022) (en banc).

(11th Cir. 2003) (alterations adopted) (internal quotation marks omitted).

Our recent decision in *Doe ex rel. Doe v. Swearingen*, 51 F.4th 1295 (11th Cir. 2022), leads us to conclude that Staley's claims here are time-barred. In *Doe*, individuals required to register as sex offenders in Florida brought constitutional claims challenging "their very classification as sex offenders." *Id.* at 1310. The plaintiffs alleged that they were injured when Florida failed to afford them with sufficient procedures to challenge sex-offender classifications at the time the classifications were made. *Id.* We concluded that any cause of action based on these injuries accrued when "the plaintiffs were designated as sex offenders and initially required to register." *Id.* Even though the plaintiffs continued to face "lingering effects" as a result of being classified as sex offenders, we held that the plaintiffs' claims accrued at the time of classification. *Id.*

Like Staley, the plaintiffs in *Doe* argued that their claims challenging their classification as sex offenders under Florida law were timely under the continuing violation doctrine. *See id.* But we rejected this argument, concluding that the "continuing violation doctrine does not save this kind of claim." *Id.*

Consistent with *Doe*, we conclude that Staley's alleged injuries in this case accrued at the time he was classified as a sexually dangerous predator. Looking to the operative complaint, Staley alleged that he was injured due to his classification as a sexually dangerous predator. This injury occurred, at the latest, on February 3,

2016. By this date, the Board's decision classifying him as a sexually dangerous predator was final and the state court had denied his petition seeking review of that decision. Even though Staley continues to face collateral effects of the classification decision, his claims challenging his classification accrued no later than when the state court dismissed his petition seeking judicial review of the classification decision. Because it is apparent from the face of the operative complaint that Staley waited more than two years after learning of the state court's decision to file this lawsuit, we conclude that the statute of limitations barred his claims.

IV.

For the reasons set forth above, we affirm the district court.

AFFIRMED.