

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-13289
Non-Argument Calendar

CHARLES STEVEN CHAUNCY,

Plaintiff-Appellant,

versus

DENNIS LEE GORDEN,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 6:24-cv-00573-RBD-NWH

Before LUCK, ABUDU, and ANDERSON, Circuit Judges.

PER CURIAM:

Charles Chauncy alleged that Dennis Gorden tortiously interfered with Chauncy's inheritance under Addison McNairy's

2007 will. The district court granted summary judgment for Gorden because the statute of limitations had run on Chauncy's tortious-interference claim. Chauncy appeals the summary judgment for Gorden. After careful review, we affirm.

FACTUAL BACKGROUND

Chauncy's mother, Nel Morgan, was in a long-term relationship with McNairy. McNairy executed three wills during his lifetime: (1) a 1998 will leaving his estate in equal parts to his brother and Morgan; (2) a 2007 will leaving his estate to Morgan and her heirs; and (3) a 2018 will leaving his estate to a charitable trust administered by his friend Gorden.

Morgan died in January 2018, and McNairy died in August 2018, shortly after executing the 2018 will. Chauncy petitioned to probate the 2007 will (which left Chauncy with McNairy's entire estate as Morgan's heir), while Gorden petitioned to probate the 2018 will (which left Chauncy with nothing). The probate court found that the 2007 will was invalid because one of its witnesses, McNairy's friend Michael Main, testified that McNairy was not present when the witnesses signed the will, as required under Florida law. *See* Fla. Stat. § 732.502(1)(c). Because the 2007 will was invalid, the probate court explained, Chauncy had no interest in McNairy's estate and therefore he had no standing to challenge the 2018 will. Thus, in July 2019, the probate court granted Gorden's petition to probate the 2018 will over the 2007 will. Chauncy sought review in the Florida appellate court.

In September 2019, while the appeal was pending, Chauncy found receipts showing that McNairy, Main, and the second witness had lunch together at the same restaurant on the day the 2007 will was executed. He therefore moved the probate court for relief from judgment claiming that the receipts showed that the 2007 will was properly witnessed. The probate court, however, denied the motion in January 2020, explaining that although the receipts suggested the men had lunch together, they did not prove that McNairy was in the witnesses' presence at the time the witnesses signed the will. The next month, Chauncy settled with Gorden and they jointly stipulated to dismiss Chauncy's appeal.

About two years later, in 2022, Chauncy learned about the 1998 will through Gorden's testimony in a separate federal court proceeding. Chauncy then petitioned to reopen the estate, arguing that the 1998 will—which named Morgan as a beneficiary—gave him standing to challenge the 2018 will as Morgan's sole heir, and that Gorden's failure to disclose the 1998 will was fraud on the court. The probate court, however, dismissed the petition for lack of standing, finding that Chauncy had no interest under the 1998 will because it named Morgan (not Morgan and her heirs) as a beneficiary, so Chauncy's interest lapsed when Morgan predeceased McNairy. Chauncy appealed, but the Florida appellate court affirmed in December 2023, likewise concluding that "Chauncy [wa]s not an interested person as a beneficiary under the 1998 [w]ill." *Chauncy v. Gorden*, 374 So. 3d 884, 886 (Fla. Dist. Ct. App. 2023).

PROCEDURAL HISTORY

Chauncy then filed this action against Gorden in March 2024, alleging that Gorden tortiously interfered with Chauncy's expectancy under the 2007 will. Chauncy alleged that Gorden procured the 2018 will by exercising undue influence over McNairy in the final months of his life, that McNairy did not have the requisite testamentary capacity to execute the 2018 will, and that Gorden caused Main to testify falsely that the 2007 will was invalid. As a result, Chauncy claimed, the probate court invalidated the 2007 will and probated the 2018 will instead, "caus[ing] harm to Dr. Chauncy's rightful testamentary expectancy in the probate proceeding" under the 2007 will.

Gorden moved for summary judgment, arguing that the four-year statute of limitations on claims of tortious interference with an expectancy barred Chauncy's March 2024 suit because the claim accrued in July 2019, when the probate court granted Gorden's petition to probate the 2018 will. Chauncy countered that his claim accrued when the probate case was "complete," which occurred in December 2023, when the Florida appeals court affirmed the probate court's dismissal of his petition to reopen the probate case based on the 1998 will.

The district court granted summary judgment for Gorden because Chauncy's tortious-interference claim was time-barred. His claim, the district court explained, accrued "in July 2019 when the court rejected the 2007 will and probated the 2018 will."

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Chauncy moved to alter or amend the judgment, arguing that his 2022 petition to probate the 1998 will should have delayed or tolled the accrual of his claim because Gorden “fraudulently conceal[ed] the existence of the 1998 [w]ill,” which prevented him from filing his tortious interference action sooner. The district court denied the motion because “the 1998 will only bequeathed a gift to Chauncy’s mother, so it lapsed when she passed away because she predeceased [McNairy].”

STANDARD OF REVIEW

We review de novo the district court’s “application of the statute of limitations and its subsequent grant of summary judgment,” applying the “the same legal standards as the district court.” *M.H.D. v. Westminster Schs.*, 172 F.3d 797, 802 n.13 (11th Cir. 1999).

DISCUSSION

Chauncy argues that the district court erred in concluding that his tortious-inference claim was time-barred because the district court incorrectly determined that it accrued in July 2019, when the 2018 will was probated. In Florida, the statute of limitations for tortious interference with an expectancy is four years, which accrues when all the elements of the claim have occurred. Fla. Stat. § 95.11(3)(i), (n); *id.* § 95.031(1).

A claim for tortious interference with an expectancy has four elements: “(1) the existence of an expectancy; (2) intentional interference with the expectancy through tortious conduct; (3) causation; and (4) damages.” *Whalen v. Prosser*, 719 So. 2d 2, 5 (Fla. Dist.

Ct. App. 1998). Because the beneficiary’s “hope of an inheritance is not sufficiently concrete to create a property right,” the claim can’t accrue while the testator is still alive. *Id.* at 5. Rather, the claim will only accrue when the “disappointed beneficiary[’s]” rights would have vested “when the testator dies or the will is filed for probate.” *Id.* at 5 & n.3.

Here, the elements of Chauncy’s tortious-interference claim occurred by July 2019. Chauncy’s complaint alleged that: (1) he had an expectancy under the 2007 will; (2) Gorden intentionally interfered with that expectancy by “excercise[ing] undue influence over Mr. McNairy,” “procure[ing] the execution of the 2018 Will in favor of Mr. Gorden,” and “solicit[ing] the false testimony of Mr. Michael Main in order to disrupt and undermine the probate proceedings”; (3) Gorden’s interference caused “the probate court [to] conclude[] that the 2007 [w]ill was not valid” in July 2019; and (4) as a result, Chauncy “suffered and continues to suffer damages” from the loss of his expectancy.

For two reasons, Chauncy argues that the district court is wrong about the July 2019, accrual date. First, he contends, his tortious-interference claim is based, at least in part, on Gorden’s fraudulent inducement of perjured testimony about the validity of the 2007 will, and he didn’t discover the fraud until after July 2019. The problem for Chauncy is that this would push back the accrual date to no later than September 2019, when Chauncy discovered the receipts that caused him to believe that Gorden induced Main to testify falsely. *See* Fla. Stat. § 95.031(2)(a) (providing that in an

action “founded upon fraud,” the statute of limitations begins to run “from the time the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence”). That would still put his tortious-interference claim—filed in March 2024—outside the four-year statute of limitations.

Second, Chauncy maintains that Gorden’s alleged “fraudulent concealment” of the 1998 will pushed back the accrual of his claim until either 2022, when Chauncy learned about the 1998 will, or 2023, when the Florida appeals court affirmed the probate court’s denial of his motion to reopen based on the 1998 will. But Chauncy’s claim was not based on Gorden’s interference with the 1998 will; it was based on Gorden’s alleged tortious interference with Chauncy’s expectancy under the 2007 will. Chauncy cannot raise a new theory at summary judgment or on appeal. *See Sorenson v. Delta Air Lines, Inc.*, 174 F.4th 54, 64 n.3 (11th Cir. 2026) (“The proper procedure . . . to assert a new ‘basis for entitlement’ was to seek to amend their complaint.” (quoting *Hurlbert v. St. Mary’s Health Care Sys., Inc.* 439 F.3d 1286, 1297 (11th Cir. 2006))). And even if he had amended his complaint to add the new theory, as the Florida appellate court explained, Chauncy had no expectancy under the 1998 will because his interest lapsed when his mother predeceased McNairy. *See Chauncy*, 374 So. 3d at 886. So there was nothing for Gorden to interfere with.

We therefore agree with the district court that the statute of limitations barred Chauncy’s claim and affirm its grant of summary judgment in favor of Gorden.

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AFFIRMED.