

IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

FILED

August 27, 2026

**AARON W. DALTON,
Plaintiff Below, Petitioner**

ASHLEY N. DEEM, CHIEF DEPUTY CLERK
INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA

v.) No. 25-ICA-422 (Cir. Ct. of Monongalia Cnty. Case No. CC-31-2023-C-103)

**CITY OF WESTOVER, RICHARD PANICO,
and ZACHARY FECSKO,
Defendants Below, Respondents**

MEMORANDUM DECISION

Petitioner Aaron Dalton appeals three orders entered by the Circuit Court of Monongalia County. He appeals the December 27, 2024, order granting Respondent City of Westover's ("City") motion to dismiss. He also appeals the December 30, 2024, order granting the motions to dismiss filed by Respondents Richard Panico and Zachary Fecsko. In addition, he appeals the September 25, 2025, order denying his post judgment motion related to the December 27, 2024, order granting the City's motion to dismiss.¹ The respondents filed individual responses.² Mr. Dalton did not file a reply.

This Court has jurisdiction over this appeal pursuant to West Virginia Code § 51-11-4 (2024). After considering the parties' arguments, the record on appeal, and the applicable law, this Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision affirming the circuit court's order is appropriate under Rule 21 of the West Virginia Rules of Appellate Procedure.

This appeal concerns the circuit court's dismissal of the second of two separate cases that Mr. Dalton filed against respondents. Mr. Dalton filed the first case in 2021, which was docketed as CC-31-2021-C-237 ("2021 Case"). He filed the second case in 2023,

¹ Despite listing the court's September 25, 2025, order in his notice of appeal, Mr. Dalton's brief raises no assignment of error directly challenging that ruling, and therefore, we deem any challenge to the court's post-judgment ruling waived.

² Mr. Dalton is represented by Christian J. Riddell, Esq. The City is represented by Heather M. Noel, Esq., J. Robert Russell, Esq., and Sara E. Brown, Esq. Mr. Panico is represented by Chelsea V. Brown, Esq., and Blair E. Wessels, Esq. Mr. Fecsko is represented by Allison B. Williams, Esq., Shelby Hicks-Merinar, Esq., and Kaitlin L.H. Robidoux, Esq.

which was docketed as CC-31-2023-C-103 (“2023 Case”) and is the subject of this appeal. Both cases involved overlapping facts and causes of action stemming from Mr. Dalton’s employment with the City and the subsequent termination of his employment. This Court previously outlined the key underlying facts in *Dalton v. City of Westover*, No. 25-ICA-132, 2025 WL 3496747 (W. Va. Ct. App. Dec. 4, 2025) (memorandum decision) (affirming the circuit court’s denial of Mr. Dalton’s administrative appeal and upholding the decision of the police civil service commission to terminate his employment with the City). Therefore, our recitation of the facts underlying this litigation will be brief.

The City hired Mr. Dalton as a patrolman for the Westover Police Department in the fall of 2013. The City hired Mr. Fecsko as a patrolman in 2017. Mr. Panico served as chief of police when both Mr. Dalton and Mr. Fecsko were hired. Mr. Dalton alleged that he began experiencing conflicts with Mr. Panico in 2017, following the settlement of a civil rights lawsuit in which both Mr. Dalton and Mr. Fecsko were named defendants. He further asserts that Mr. Fecsko and Mr. Panico sought to have him terminated.

On August 30, 2020, several of Mr. Dalton’s fellow officers signed a petition raising concerns about his professional misconduct, and the City placed him on administrative leave the following day. Mr. Dalton alleged that the petition falsely accused him of criminal conduct, destruction of evidence, civil rights violations, and moral and sexual improprieties. On October 13, 2021, the City’s chief of police and its mayor recommended terminating Mr. Dalton’s employment based on the misconduct alleged in the petition. A review board subsequently heard the matter, agreed with the City’s recommendation, and terminated Mr. Dalton’s employment in February of 2022.

Mr. Dalton exercised his right to an administrative hearing before the police civil service commission, which upheld his termination. His termination was later affirmed on appeal, first by the circuit court and then by this Court. *See Dalton*, No. 2025 WL 3496747, at *4-8.

Mr. Dalton initiated the 2021 Case on August 20, 2021, by filing a complaint for injunctive and declaratory relief against the City, alleging violations of the Police Civil Service Act (“Civil Service Act”) based on events occurring after he was placed on administrative leave on August 31, 2020, through approximately April of 2021. The complaint did not assert any tort claims. On March 29, 2022, he filed an amended complaint adding allegations related to events on July 23, 2021, October 13, 2021, and February 28, 2022, while seeking the same relief requested in his original filing.³ On January 9, 2023, Mr. Dalton moved for leave to amend his complaint to add whistleblower violations,

³ Mr. Dalton’s former counsel filed the original and amended complaints. His present counsel has been counsel of record since December of 2022.

intentional infliction of emotional distress (“IIED”), and punitive damages, but he failed to notice the motion for hearing, and no amended pleading was ever filed.

On April 19, 2023, Mr. Dalton commenced the 2023 Case, alleging whistleblower violations, Civil Service Act violations, IIED, and punitive damages against the City. Although the original complaint purportedly asserted additional claims against Mr. Panico and Mr. Fecsko, including whistleblower violations, defamation, tortious interference, IIED, and punitive damages, neither individual was named as a defendant, and Mr. Dalton withheld service of process. On August 2, 2023, he filed an amended complaint in that action asserting the same claims but adding Mr. Panico and Mr. Fecsko as defendants; this complaint was properly served.

On August 7, 2023, Mr. Dalton filed a second motion for leave to amend and a proposed second amended complaint in the 2021 Case. The proposed pleading added Mr. Panico and Mr. Fecsko as defendants and mirrored the allegations in the amended complaint from the 2023 Case. Mr. Dalton again failed to notice the motion for hearing. At a status conference on August 10, 2023, the circuit court directed him to notice the motion within fifteen days, but he did not comply. On October 19, 2023, Mr. Dalton moved to consolidate both cases but did not set either motion for hearing. On November 21, 2023, the City filed motions to strike or dismiss the amended complaint in the 2021 Case and noticed its motions for hearing.

The circuit court conducted a hearing in the 2021 Case on February 26, 2024, on the City’s motions and, despite the lack of notice, also heard Mr. Dalton’s second motion for leave to amend. After the hearing, the court denied the City’s motion to strike as moot, deferred ruling on the City’s motion to dismiss and granted Mr. Dalton’s motion to amend. In granting the motion, the court applied the liberal amendment standard under Rule 15 of the West Virginia Rules of Civil Procedure⁴ but expressly declined to decide whether the second amended complaint related back to any prior pleading under the Rule. The court also deferred rulings on statute of limitations issues and reserved all defendants’ objections for assertion following service of the amended pleading.

On September 23, 2023, in the 2023 Case, the City filed a motion to dismiss the amended complaint or, alternatively, for summary judgment. On September 25, 2023, Mr. Panico and Mr. Fecsko each filed a separate motion to dismiss the 2023 Case. The defendants filed substantially similar motions in the 2021 Case. All motions were set for hearing on May 22, 2024, along with Mr. Dalton’s second motion for leave to amend and his motion to consolidate. In support of its motion, the City argued that immunity barred

⁴ This case was decided prior to the effective date of the 2025 amendments to the West Virginia Rules of Civil Procedure. Therefore, any citation to the rules in this decision relates to the prior version that was adopted by the Supreme Court of Appeals of West Virginia in 1998.

Mr. Dalton's claims, that his claims failed to state a claim, and that they were time barred. The City further contended that the Civil Service Act preempted the tort claims and did not provide a private cause of action. Both Mr. Panico and Mr. Fecsko separately argued that Mr. Dalton's claims failed to state a claim and were time barred.

The circuit court entered an order in the 2023 Case on December 27, 2024, granting the City's motion and dismissing Mr. Dalton's claims.⁵ The court first addressed Mr. Dalton's whistle-blower claims and found that West Virginia Code § 6C-1-4(a) (2020) requires such claims to be filed within two years of the alleged violation. The court determined that Mr. Dalton's whistle-blower claims were time-barred. It noted that the only operative date alleged in the complaint was August 30, 2020, the date he received the petition, and that he did not allege any violations occurring after he was placed on administrative leave the following day. Because Mr. Dalton had notice of any potential claim by August 31, 2020, and did not file his amended complaint in the 2023 Case until August 2, 2023, the court concluded that this claim was untimely under the statute of limitations.

The court also observed that Mr. Dalton failed to allege any facts establishing a violation of the whistle-blower statute and instead offered only a conclusory assertion that a violation occurred. As a result, the court found he had not established a prima facie cause of action. The court further determined that, under West Virginia law, the police civil service commission held exclusive authority over the discipline and discharge of civil service police officers, and that the authority Mr. Dalton cited, related to litigants pursuing parallel civil service commission and circuit court proceedings, was distinguishable or inapplicable.

The circuit court also determined that Mr. Dalton could not maintain a private cause of action for alleged violations of the Civil Service Act. The court reached this conclusion after analyzing Mr. Dalton's claims under the four-part test articulated in Syllabus Point 1 of *Hurley v. Allied Chemical Corp.*, 164 W. Va. 268, 262 S.E.2d 757 (1980). Applying that test, the court concluded that recognizing a private cause of action would be inconsistent with the plain language of the Civil Service Act. The court found that the Civil Service Act vests the police civil service commission with exclusive authority over the discipline and discharge of civil service police officers, Mr. Dalton offered no dispositive authority establishing otherwise, and that his cited authority was either distinguishable or

⁵ Although the circuit court ultimately denied Mr. Dalton's motion to consolidate the 2021 Case with the 2023 Case, both the December 27, 2024, order dismissing the City and the December 30, 2024, order dismissing Fecsko and Panico include findings and conclusions relevant to both cases. However, these orders were entered only in the 2023 Case, and Mr. Dalton filed his Rule 59(e) motion only in the 2023 Case. Therefore, as only the dismissal of the 2023 Case is before this Court on appeal, we will focus on the rulings in these orders as they relate to the 2023 Case.

inapplicable to the issue at hand. The court observed further that the circuit court lacks authority to adjudicate civil service matters except in appeals from those tribunals, and that, at the time, Mr. Dalton's police civil service commission appeal was still pending before the circuit court.

Similarly, the court found that Mr. Dalton's IIED claims lacked merit. It found that the complaints contained no factual allegations supporting such claims and were time-barred under the applicable two-year statute of limitations. The court alternatively noted that even if the IIED claims were timely, they would still fail because they arose solely from the City's lawful participation in proceedings before the police civil service commission and from Mr. Dalton's dissatisfaction with those proceedings. Under Syllabus Points 2 and 3 of *Dzinglski v. Weirton Steel Corp.*, 191 W. Va. 278, 445 S.E.2d 219 (1994), such conduct is legally insufficient to sustain an IIED claim.

The court's statute of limitations rulings were supported by its determination that Mr. Dalton's amended complaint against the City in the 2023 Case did not relate back to his original August 20, 2021, complaint in the 2021 Case under Rule 15(c) of the West Virginia Rules of Civil Procedure. The court noted that *Dzinglski* states that an amended complaint relates back to the original filing only when the added cause of action arises from the conduct underlying the original. *Dzinglski*, at 281, 445 S.E.2d at 222, syl. pt. 7. The court concluded that relation back did not apply because the original complaint in the 2021 Case asserted no tort claims against any defendant and addressed only the conduct of the police civil service commission proceedings; the tort claims were already time-barred before Mr. Dalton filed any motion to amend; and it was undisputed that Mr. Dalton and his former counsel were aware of those tort claims at the time of the original filing but chose not to plead them. The court found that this omission was deliberate, and as a result, held that Mr. Dalton was estopped from asserting the tort claims through amendment.

Lastly, the circuit court rejected Mr. Dalton's request for punitive damages, on the basis that such relief was not available as a private cause of action, the Civil Service Act does not authorize punitive damages, and the City was entitled to immunity from all of Mr. Dalton's claims. The court dismissed all of Mr. Dalton's claims against the City with prejudice.

The court granted similar relief to Mr. Panico and Mr. Fecsco when it granted their motions to dismiss by order entered in the 2023 Case on December 30, 2024. The court applied the same rationale it used in ruling on the City's motion and concluded that the whistle-blower claim against these respondents was time-barred and additionally noted that Mr. Fecsco did not meet the statutory definition of an "employer" as defined by the whistle-blower statute, W. Va. Code § 6C-1-2(c) (1988).

The court concluded that Mr. Dalton's defamation claim was barred by the applicable one-year statute of limitations. The court found that the claim arose from

statements allegedly made in the August 30, 2020, petition and inferred, based on Mr. Dalton's August 2, 2023, amended complaint, that he had notice of the claim on that date. The court further explained that even using the latest possible date on which Mr. Dalton could have learned of the alleged defamatory statements, the City Council meeting on April 19, 2021, the claim was still untimely because he did not plead defamation against Mr. Panico or Mr. Fecsco on or before April 19, 2022.

Next, the court used the same reasoning to determine that Mr. Dalton's tortious interference and IIED claims were barred by their applicable two-year statute of limitations. It found, based on the amended complaint, that these claims arose on or before August 31, 2020, and that no subsequent conduct could be alleged because Mr. Dalton was placed on administrative leave that day and never returned to employment. Because Mr. Dalton was aware of any potential claims by August 31, 2020, the court concluded that both causes of action were untimely.

Likewise, the court found that Mr. Dalton's claims against Mr. Panico and Mr. Fecsco did not relate back to the original complaint in the 2021 Case because he could not meet the requirements of Rule 15(c)(3) of the West Virginia Rules of Civil Procedure.⁶ Its analysis was based on the following precedent:

Under Rule 15(c)(3) of the West Virginia Rules of Civil Procedure [1998], an amendment to a complaint changing a defendant or the naming of a defendant will relate back to the date the plaintiff filed the original complaint if: (1) the claim asserted in the amended complaint arose out of the same conduct, transaction, or occurrence as that asserted in the original complaint; (2) the defendant named in the amended complaint received notice of the filing of the original complaint and is not prejudiced in maintaining a defense by the delay in being named; (3) the defendant either knew or should have known that he or she would have been named in the original complaint had it not been for a mistake; and (4) notice of the action, and knowledge or potential knowledge of the mistake, was received by the defendant within the period prescribed for commencing an action and service of process of the original complaint.

Syl. Pt. 1, *Muto ex rel. Muto v. Scott*, 224 W. Va. 350, 686 S.E.2d 1 (2008) (citation modified). It also noted that the second and fourth factors contemplate that "the notice received must be more than notice of the event that gave rise to the cause of action; it must be notice that the plaintiff has instituted the action." *Brooks v. Isinghood*, 213 W. Va. 675, 687, 584 S.E.2d 531, 543 (2003).

⁶ See n.4 supra.

Applying the law to the facts, the court determined that Mr. Dalton's original and amended complaints in the 2021 Case did not name either Mr. Panico or Mr. Fecsko as parties. Instead, those pleadings sought only injunctive and declaratory relief against the City based on conduct Mr. Dalton claimed violated his employment rights under the Act. The court further observed that the allegations in those pleadings were based on events occurring after August 31, 2020, dates falling after any alleged wrongdoing by Mr. Panico or Mr. Fecsko. Likewise, the pleadings contained no tort claims and did not reference any conduct by either Mr. Panico or Mr. Fecsko that would form the basis of a tort claim.

The court further found that neither Mr. Panico nor Mr. Fecsko had been served with either pleading, and they had no notice or reason to believe that Mr. Dalton was asserting a claim against them in the 2021 Case. Mr. Dalton did not contend that their omission from those pleadings was the result of mistake. The court also noted that it was undisputed that both Mr. Dalton and his former counsel were aware of potential tort claims prior to the inception of the 2021 Case but chose not to raise them. Because Mr. Dalton was dilatory in asserting those claims, the court concluded that he could not now claim mistake and attempt to assert them by filing the 2023 Case. *See Muto*, at 350, 686 S.E.2d at 3-4, syl. pt. 6 (holding that relation back is not permissible when a plaintiff is dilatory in naming a defendant before expiration of the statute of limitations).⁷ Therefore, the court determined that the claims were time-barred. As a final matter, the court determined that because Mr. Dalton's claims were precluded, his derivative punitive damages claim could not survive. The circuit court also denied Mr. Dalton's motion to consolidate the 2021 Case and the 2023 Case.⁸

On January 6, 2025, Mr. Dalton filed a motion in the 2023 Case under Rules 59(e) and 60(b) of the West Virginia Rules of Civil Procedure, seeking to alter or amend the court's December 27, 2024, order dismissing his claims against the City. The court denied the motion by order entered on September 25, 2025. This appeal followed.

When reviewing a circuit court's order granting a motion to dismiss, this Court applies a de novo standard of review. *Folse v. Rollyson*, 249 W. Va. 389, 393, 895 S.E.2d 244, 248 (Ct. App. 2023).

On appeal, Mr. Dalton asserts that the circuit court erred in granting the motions to dismiss filed by the City, Mr. Panico, and Mr. Fecsko. Although Mr. Dalton challenges several aspects of the circuit court's rulings, we need not address each argument raised on appeal. Instead, we conclude that these matters may be resolved by limiting our discussion

⁷ The court also found that the same facts precluded application of the continuing tort doctrine. Because Mr. Dalton does not directly challenge that finding on appeal, we find that it is unnecessary to further address the court's ruling on that issue.

⁸ In his brief, Mr. Dalton erroneously asserts that the two actions were consolidated.

to Mr. Dalton’s challenges to the circuit court’s findings that all of his claims were barred by their applicable statutes of limitations and were not saved by Rule 15(c) of the West Virginia Rules of Civil Procedure.⁹

Under West Virginia law, “[a] five-step analysis should be applied to determine whether a cause of action is time-barred.” Syl. Pt. 5, *Dunn v. Rockwell*, 225 W. Va. 43, 46, 689 S.E.2d 255, 258 (2009). The first two steps include identifying the applicable limitations period for each claim and determining when the elements of the cause of action occurred. *Id.* Mr. Dalton does not contest the circuit court’s conclusion that his tort-based claims, including his IIED and tortious interference claims, were subject to a two-year statute of limitations. Nor does he dispute that his whistle-blower claims were subject to the two-year limitations period set forth in West Virginia Code § 6C-1-4(a) (2020). Finally, Mr. Dalton does not contest the circuit court’s conclusion that his defamation claim was subject to a one-year statute of limitations. Mr. Dalton does not meaningfully contest that his whistle-blower and tort-based claims accrued on August 31, 2020,¹⁰ when he was placed on administrative leave, or that his defamation claim accrued at the latest on April 19, 2021.

Mr. Dalton filed the 2023 Case against the City, including his IIED and whistle-blower claims, on April 19, 2023. He added his claims against Fecsko and Panico, including tortious interference and defamation, to the 2023 Case in his August 2, 2023, amended complaint. As the one-year limitations period for his defamation claim expired on April 19, 2022, and the two-year period on his tort and whistleblower claims expired on August 31, 2022, his claims were all barred absent tolling. Steps three and four of the *Dunn* analysis address tolling under the discovery rule or by fraudulent concealment, but Mr. Dalton does not argue either. Instead, in arguing that his otherwise untimely claims in the 2023 Case “relate back” to the original complaint in the 2021 Case, he invokes the fifth

⁹ Mr. Dalton divides his brief into two broad assignments of error: 1) that the circuit court erred in dismissing his claims against the City; and 2) that the circuit court erred in dismissing his claims against Fecsko and Panico. Given this general framing, Mr. Dalton does not offer much argument tailored specifically to each of his claims. However, while it is clear that he disputes the dismissal of his whistle-blower and tort-based claims, he does not contest the circuit court’s analysis under *Hurley v. Allied Chemical Corp.*, 164 W. Va. 268, 262 S.E.2d 757 (1980) that he could not maintain a private cause of action for alleged violations of the Civil Service Act. As Mr. Dalton has not disputed this conclusion, which is dispositive of any such claim, we do not disturb it and find it unnecessary to address his purported claims under the Civil Service Act in our statute of limitations analysis.

¹⁰ Mr. Dalton states in his brief that this would have been the “absolute earliest” that his claims accrued, and suggests that they could have accrued “much later.” However, he does not actually argue this point with citations to the record or even offer specific later dates.

step of *Dunn*, which addresses whether the “statute of limitation period was arrested by some other tolling doctrine.” *Dunn*, 225 W. Va. at 46, 689 S.E.2d at 258, Syl. Pt. 5; see *Grimmett v. Wiseman Excavating, Inc.*, No. 19-0061, 2020 WL 4354928, at *5 (W. Va. July 30, 2020) (memorandum decision) (noting that a “relation back” argument goes to step five of *Dunn*).

Mr. Dalton argues that the circuit court erred when it found that his claims were time-barred and Rule 15(c) was inapplicable. On this issue, he contends that his claims in the 2023 Case were preserved because they relate back to the original complaint in the 2021 Case. With respect to the City, he contends that there is no legal requirement that a newly added cause of action must itself fall within the original statute of limitations period. Rather, he asserts that Rule 15(c) provides that, so long as the original complaint was timely filed, any new claims added by amendment relate back to that filing, even if those claims would otherwise be time-barred. According to Mr. Dalton, both his original and newly asserted claims arise from the same occurrence: the August 30, 2020, petition that ultimately led to his termination and was circulated by officers, including Mr. Panico and Mr. Fecsko. He further maintains that the 2023 Case merely “beefed up” the claims asserted in the 2021 Case and that his elaboration on the same occurrence is contemplated by Rule 15(c)¹¹ and must relate back. We do not agree.

Under Rule 15(c),

[a]n amendment of a pleading relates back to the date of the original pleading when: (1) relation back is permitted by the law that provides the statute of limitations applicable to the action; or (2) the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading[.]

Further, as the circuit court recognized in its order:

Pursuant to Rule 15 [of the West Virginia Rules of Civil Procedure], amendments relate back when the cause of action sought to be added grows out of the specified conduct of the defendant that gave rise to the original cause of action. If, however, the supplemental pleading creates an entirely new cause of action based on facts different from those in the original complaint, the amended pleading will not relate back for statute of limitations purposes.

Dzinglski, 191 W. Va. at 281, 445 S.E.2d at 222, syl. pt. 7.

¹¹ See n.4 *supra*.

While the circuit court rejected Mr. Dalton's relation back argument under a traditional analysis, we find that it fails for a foundational reason: the complaints filed in the 2023 Case were not amendments of the original complaint filed in the 2021 Case; they were complaints filed in a new proceeding. In applying the substantially similar federal version of Rule 15(c), the Fourth Circuit explained that "a complaint in one case may not relate back to a complaint in another case to avoid the statute of limitations." *Angles v. Dollar Tree Stores, Inc.*, 494 F. App'x 326, 330 n.8 (4th Cir. 2012) (collecting cases); see *Marsh v. Soares*, 223 F.3d 1217, 1219 (10th Cir. 2000) ("A separately filed claim, as opposed to an amendment or a supplementary pleading, does not relate back to a previously filed claim." (citation modified)). While federal court interpretations of the Federal Rules of Civil Procedure are not binding on our interpretation of the West Virginia Rules of Civil Procedure, they are entitled to "substantial weight." *Painter v. Peavy*, 192 W. Va. 189, 192 n.6, 451 S.E.2d 755, 758 n.6 (1994). Moreover, *Angles* is consistent with the language of Rule 15(c), which explicitly concerns "an amendment of a pleading," not a complaint filed in a new, distinct action. See *Hammonds v. Riverview Cemetery Ass'n*, No. 14-1338, 2015 WL 6143359, at *2 (W. Va. Oct. 16, 2015) (memorandum decision) (affirming circuit court's application of *Angles* where petitioner offered only skeletal argument that failed to explain how it was contrary to West Virginia law). Therefore, because the 2023 Case is a separate action from the 2021 Case, the complaints in the later action cannot relate back to the earlier action, and Rule 15(c) is inapplicable.

Moreover, even if we were to construe the complaints in the 2023 Case as attempted amendments of the opening complaint in the 2021 Case, we would find no error in the circuit court's conclusion. In this case, the application of Rule 15(c) is problematic for Mr. Dalton's position on appeal because his original complaint in the 2021 Case addressed only the City and alleged violations of the Act based on what he believed were improprieties in his disciplinary proceedings before the police civil service commission. Nothing in that complaint sets forth facts outside of the administrative process that would implicate tortious conduct by any party. Therefore, his claims unequivocally do not relate back under Rule 15(c).

As application of the *Dunn* factors to the alleged facts demonstrate that all of the claims Mr. Dalton contests on appeal were barred by their relevant statutes of limitations and that no tolling doctrine applied, we find no error in the circuit court's decision to dismiss the 2023 Case.

Accordingly, we affirm.

Affirmed.

ISSUED: August 27, 2026

CONCURRED IN BY:

Chief Judge Daniel W. Greear
Judge Charles O. Lorensen
Judge S. Ryan White