

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0041**

Richard Preston Blackwell,
Appellant,

vs.

McDonald's Staff,
Respondent,

County of Dakota,
Respondent,

City of Inver Grove Heights,
Respondent.

**Filed November 25, 2024
Affirmed
Wheelock, Judge**

Dakota County District Court
File No. 19HA-CV-23-1486

Richard Preston Blackwell, St. Paul, Minnesota (pro se appellant)

David J. Koob, Spencer Fane LLP, Minneapolis, Minnesota (for respondent McDonald's Corporation)

Kathryn M. Keena, Dakota County Attorney, Justin Hagel, Assistant County Attorney, Hastings, Minnesota (for respondent County of Dakota)

Ryan M. Zipf, League of Minnesota Cities, St. Paul, Minnesota (for respondent City of Inver Grove Heights)

Considered and decided by Wheelock, Presiding Judge; Reyes, Judge; and Slieter, Judge.

NONPRECEDENTIAL OPINION

WHEELOCK, Judge

Appellant challenges the dismissal of his complaint under Minnesota Rule of Civil Procedure 12.02(e) for failure to state a claim for which relief can be granted. Because the statute of limitations has run as to some claims and appellant has not identified facts that would allow him relief as to others, we affirm.

FACTS

The following facts are alleged in appellant Richard Preston Blackwell's complaint. On April 12, 2017, Blackwell visited a restaurant owned by respondent McDonald's Corporation.¹ Blackwell purchased his food and, because staff did not offer him a receipt, requested a free dessert through a promotional reward program from the restaurant. He then returned to his vehicle in the parking lot while he waited for staff to prepare his free dessert. Blackwell noticed a woman leave the restaurant, look at him, and reenter the restaurant. Blackwell exited his car to go inside and collect his food, but was stopped by multiple police officers with weapons drawn. The officers then handcuffed Blackwell, put him in a police vehicle, and informed him that a McDonald's staff member called the police to report "a [B]lack man . . . with a gun." An officer went into the restaurant and came out some time later, at which point Blackwell was released.

¹ The caption is taken from the district court record. Minn. R. Civ. App. P. 143.01 ("The title of the action shall not be changed in consequence of the appeal."). The caption here, which we do not change, contains an error listing the party name as "McDonald's Staff" instead of "McDonald's Corporation."

On May 22, 2017, Blackwell visited the City of Inver Grove Heights Police Department to obtain the police reports related to the incident at the McDonald's restaurant. He received the documents and requested to speak with a sergeant because the reports did not identify all of the officers involved in the incident. When Blackwell met the sergeant, the sergeant asked him to remove his medical mask.² Blackwell became offended and believed that the sergeant asked him to remove the mask only because Blackwell is a "darker complexion male." Months later, Blackwell filed another data request because the reports were stolen out of his car; however, the details in the new copies of the reports he received were different from those contained in the copies he was provided in May. Blackwell also obtained a report describing his visit to the police department on May 22, and he asserts that this report contained inaccurate details that were included to protect the sergeant from the sergeant's "deliberate discrimination." Specifically, Blackwell points to the following aspects of the report: the description of him as wearing "excessive military clothing" and dressing inconsistently with the spring weather, the sergeant's belief that Blackwell dressed in a way to intentionally scare people, and the sergeant's concern that Blackwell was "trying to disguise himself" because he was "going to pull a gun." Blackwell asserts that, in fact, he wore an orange and tan sweater and buttoned shirt.

On April 10, 2023, Blackwell signed and dated his civil complaint in this matter and filed an application to proceed in forma pauperis to waive his filing and associated fees, which the district court granted two days later. On May 4, 2023, the sheriff served the

² At the time Blackwell wore a mask in the station, it was prior to the COVID-19 pandemic and wearing a surgical mask in public was not common practice.

summons and complaint on respondent Dakota County. On May 10, 2023, the sheriff served the summons and complaint on respondent City of Inver Grove Heights. And on May 12, 2023, the sheriff received the summons and complaint for McDonald's, which was served on May 22.

Each of the respondents moved to dismiss the complaint pursuant to Minn. R. Civ. P. 12.02(e) for failure to state a claim upon which relief can be granted. On August 4, 2023, the district court provided notice that it had scheduled a hearing on the respondents' motions for September 25, 2023. At 2:05 a.m. on September 25, 2023, Blackwell submitted a response to the motions. At the start of the hearing, Blackwell notified the district court that he had submitted a response a few hours earlier and stated, "[I]t was my understanding that [the hearing today] was a tentative court appearance." The district court informed Blackwell that his response had been due 14 days before the hearing but permitted Blackwell to respond orally to the defendants' arguments at the hearing.

The district court granted all three motions to dismiss in December 2023. In its order, the district court made the following determinations: (1) it would not consider Blackwell's written response submitted on September 25 because it was untimely; (2) Blackwell commenced his lawsuit against McDonald's on May 12, 2023, and he commenced his suits against the city and the county no earlier than April 10, 2023, which is the date he signed the complaint; (3) all of Blackwell's claims under the Minnesota Human Rights Act (MHRA), Minn. Stat. §§ 363A.01-.44 (2022), are barred by the applicable statute of limitations; (4) all of Blackwell's claims under 42 U.S.C. § 1983 (2018) fail because McDonald's is not a state actor and Blackwell did not identify a city or

county policy that inflicted an injury; (5) all of Blackwell's claims under Minn. Stat. § 611A.79 (2022) fail because the claims against McDonald's are barred by the statute of limitations and the claims against the city and the county are not supported by the facts alleged in the complaint; and (6) any other claims Blackwell may have attempted to bring were not properly presented and not cognizable.

Blackwell appeals.

DECISION

Blackwell argues that the district court erred by dismissing his complaint based on its determinations that (1) his claims under the MHRA are barred by the statute of limitations, (2) he failed to assert facts to support his claims for relief under 42 U.S.C. § 1983, and (3) he failed to assert facts to support his claims for relief under Minn. Stat. § 611A.79.³

The district court dismissed Blackwell's complaint for failure to state a claim upon which relief can be granted. *See* Minn. R. Civ. P. 12.02(e). Because the district court did

³ To the extent that Blackwell brought other claims in his complaint or made additional arguments to this court that we have not addressed, they are forfeited because appellate courts do not presume error on appeal and will not consider inadequately briefed issues. *See Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982) (explaining that appellate court review is limited to the district court's record and arguments made in the brief on appeal); *Loth v. Loth*, 35 N.W.2d 542, 546 (Minn. 1949) (explaining that error is not presumed on appeal and it is the appellant's duty to show that the district court erred and that the appellant was prejudiced as a result).

not look beyond Blackwell’s complaint, we review its dismissal of the complaint under rule 12.02(e).⁴

Appellate courts review de novo a district court’s order dismissing a complaint under rule 12.02(e). *Demskie v. U.S. Bank Nat’l Ass’n*, 7 N.W.3d 382, 386 (Minn. 2024). In so doing, appellate courts “review the legal sufficiency of the claim de novo to determine whether the complaint sets forth a legally sufficient claim for relief,” *Graphic Commc’ns Loc. 1B Health & Welfare Fund “A” v. CVS Caremark Corp.*, 850 N.W.2d 682, 692 (Minn. 2014), accepting the facts alleged in the complaint as true and construing all reasonable inferences in favor of the complaint, *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 606 (Minn. 2014). Dismissal under rule 12.02(e) is proper only if “‘there is no way to construe the alleged facts—and the inferences drawn from those facts—in support’ of the claim.” *Demskie*, 7 N.W.3d at 386 (quoting *Hansen v. U.S. Bank Nat’l Ass’n*, 934 N.W.2d 319, 326 (Minn. 2019)). A complaint should not be dismissed if the information provided is “sufficient to fairly notify the opposing party of the claim against it, with a focus on the underlying incident rather than on the specific facts of the incident.” *Id.* at 387 (quotations omitted).

Blackwell is self-represented in this appeal. While appellate courts provide “some leeway” to a self-represented party who is “attempting to comply with court rules,” the party is not “relieved of the burden of, at least, adequately communicating to the court what

⁴ When considering a motion to dismiss under rule 12.02(e), the district court may not look beyond the pleading; if the district court reviews materials beyond the pleading, the motion must be considered a motion for summary judgment and the standard under Minn. R. Civ. P. 56 applies. Minn. R. Civ. P. 12.02.

it is that he wants accomplished and by whom.” *Carpenter v. Woodvale, Inc.*, 400 N.W.2d 727, 729 (Minn. 1987). “[T]his court has repeatedly emphasized that pro se litigants are generally held to the same standards as attorneys and must comply with court rules.” *Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001).

We address each of Blackwell’s arguments in turn.

A. MHRA

Blackwell alleges that discrimination occurred at the McDonald’s restaurant on April 12, 2017, and at the city’s police department on May 22, 2017. The district court determined that the MHRA’s one-year statute of limitations bars Blackwell’s MHRA claims because he commenced those claims in 2023, more than one year after the incidents occurred.

Appellate courts “review de novo the construction and application of a statute of limitations.” *Sipe v. STS Mfg., Inc.*, 834 N.W.2d 683, 686 (Minn. 2013) (quotation omitted). Appellate courts also review the running of a statute of limitations de novo. *Ringsred v. City of Duluth*, 995 N.W.2d 146, 151 (Minn. 2023). The purpose of statutes of limitations is to ensure that evidence is not lost to time. *Park Nicollet Clinic v. Hamann*, 808 N.W.2d 828, 832 (Minn. 2011). They do so by precluding a plaintiff’s cause of action that is not brought within the designated time after the cause of action accrues. *Weston v. McWilliams & Assocs.*, 716 N.W.2d 634, 641 (Minn. 2006).

Under the MHRA, a claim “must be brought as a civil action pursuant to [Minnesota Statutes] section 363A.33, subdivision 1, filed in a charge with a local commission pursuant to section 363A.07, subdivision 3, or filed in a charge with the commissioner

within one year after the occurrence of the practice.” Minn. Stat. § 363A.28, subd. 3(a) (2022). Blackwell argues that section 363A.28, subdivision 3(a), imposes the one-year limit only on claims filed with the commissioner and does not apply to actions filed in district court pursuant to Minnesota Statutes section 363A.33, subdivision 1 (2022). Blackwell’s interpretation conflicts with the plain meaning of the statute and with caselaw. The clause “within one year after the occurrence of the practice” applies to each of the three means of filing an MHRA discrimination claim—in district court, with the local commission, or with the commissioner—and therefore, the statute of limitations for any claim alleging violations of the MHRA is one year. *Id.*; see *Abel v. Abbott Nw. Hosp.*, 947 N.W.2d 58, 70 (Minn. 2020) (applying the one-year statute of limitations to MHRA claims commenced in district court).

Because the events that gave rise to Blackwell’s claims occurred in 2017 and Blackwell did not file his claims until 2023, more than one year had passed since the events giving rise to these claims occurred. We therefore conclude that the statute of limitations bars Blackwell’s MHRA claims against all three respondents.

B. 42 U.S.C. § 1983

Blackwell next asserts that he is entitled to relief pursuant to 42 U.S.C. § 1983, which allows a plaintiff to seek relief for violations of their constitutional rights by a state actor. *Husten v. Schnell*, 969 N.W.2d 851, 856 (Minn. App. 2021) (“Section 1983 provides a federal civil action to challenge deprivation of constitutional rights under color of state law.”), *rev. denied* (Minn. Mar. 15, 2022); *Simmons v. Fabian*, 743 N.W.2d 281, 284-86 (Minn. App. 2007) (explaining that section 1983 deters state actors from using their

authority, or “acting under color of law,” to deprive a person of their rights). Claims brought under section 1983 are subject to the applicable state’s statute of limitations relating to residual personal-injury actions. *Berg v. Groschen*, 437 N.W.2d 75, 77 (Minn. App. 1989). In Minnesota, this is six years. *Id.*

1. Claims Against McDonald’s

Blackwell asserts that he is entitled to relief under section 1983 for the actions taken by McDonald’s staff in April 2017, but the district court dismissed these claims, determining that they were barred by the statute of limitations and impermissible because McDonald’s is not a state actor. We agree with the district court.

As stated above, we review *de novo* the construction and application of statutes of limitations. *Ringsred*, 995 N.W.2d at 151; *Sipe*, 834 N.W.2d at 686. To apply statutes of limitations, appellate courts must first determine when the lawsuit commenced, applying Minnesota Rule of Civil Procedure 3.01.⁵ Appellate courts interpret the Minnesota Rules

⁵ Blackwell asserts that Minn. Stat. § 563.01 (2022) establishes the commencement of his suit, not rule 3.01, but he provides no support for this argument. Section 563.01, subdivision 3(a), states that a court “may authorize the commencement . . . of any civil action . . . *without prepayment of fees*”; however, this section allows a person to proceed in forma pauperis—waiving certain fees associated with commencing a lawsuit that may otherwise prohibit access to the courts—it does not establish how or when a lawsuit commences. Minn. Stat. § 563.01, subd. 3(a) (emphasis added). In addition, Blackwell’s reliance on section 563.01, subdivision 4, is misplaced. The plain language of section 563.01, subdivision 4, states that, “upon order of the court,” the sheriff “shall perform their duties without charge to the person proceeding with a court fee waiver,” which requires the sheriff to serve a complaint without payment. *Id.*, subd. 4. But for a sheriff to serve the defendants without receiving payment of the associated fee, the sheriff must first have the district court’s order confirming that the action is not frivolous and that the plaintiff is unable to pay the fees. *Id.*, subd. 3(a)-(b). Blackwell’s argument is without merit, and we apply rule 3.01 to determine when Blackwell commenced his lawsuit.

of Civil Procedure de novo. *Glen Edin of Edinburgh Ass’n v. Hiscox Ins. Co.*, 992 N.W.2d 393, 397 (Minn. 2023). If the plain language of the rule is unambiguous, then courts follow the plain language; a rule is ambiguous if it is subject to more than one reasonable interpretation. *Id.* Appellate courts review factual findings for clear error. *Rasmussen v. Two Harbors Fish Co.*, 832 N.W.2d 790, 797 (Minn. 2013).

Minnesota Rule of Civil Procedure 3.01(c) provides that a “civil action is commenced against each defendant . . . when the summons is delivered for service to the sheriff in the county where the defendant resides” The sheriff’s affidavit of service on McDonald’s establishes that the sheriff received the summons and complaint from Blackwell on May 12, 2023, which was more than six years after the events occurred that gave rise to Blackwell’s claim. Thus, the district court correctly determined that Blackwell’s claims against McDonald’s were commenced outside the limitations period and dismissed them accordingly.⁶

2. Claims Against the City and the County

Blackwell asserts that he is entitled to relief under section 1983 for the actions taken by the city and the county in April and May 2017. The district court dismissed these claims

⁶ We further note that Blackwell’s section 1983 claim against McDonald’s fails because McDonald’s is not a state actor. *See Husten*, 969 N.W.2d at 856. A private entity may be considered a state actor if “there is a sufficiently close nexus between the [s]tate and the challenged action of the [private] entity so that the action of the latter may be fairly treated as that of the [s]tate itself.” *In re Appeal of Exclusion of Molnar*, 720 N.W.2d 604, 611 (Minn. App. 2006) (quotation omitted). Blackwell did not allege sufficient facts, and we discern none, to support a conclusion that McDonald’s was a state actor. Therefore, we conclude that the district court also correctly determined that Blackwell did not plead a valid claim for relief pursuant to 42 U.S.C. § 1983 against McDonald’s on this basis.

because Blackwell failed to allege sufficient facts to support a claim for relief.⁷ We again agree with the district court.

A plaintiff may seek relief under 42 U.S.C. § 1983 for violations of their constitutional rights by a state actor. *Husten*, 969 N.W.2d at 856. For a municipality to be subject to a section 1983 claim, the plaintiff must identify a policy or custom of the municipality that causes the unconstitutional conduct. *Ringsred*, 995 N.W.2d at 154.

In his complaint, Blackwell failed to state a claim under section 1983 for which relief may be granted because he did not allege any policy or custom of the city or the county. The record demonstrates that Blackwell did not name individual municipal employees or serve any employee in their individual capacity. *See* Minn. R. Civ. P. 4.03(a) (service upon an individual). Instead, Blackwell named the city and the county as respondents and served the municipalities themselves. *See* Minn. R. Civ. P. 4.03(e) (service upon a municipality). Because the municipalities were the official parties to his complaint, Blackwell needed to identify a policy or custom of either the city or the county that would demonstrate a pattern of unconstitutional misconduct, *see Ringsred*, 995 N.W.2d at 154, but he did not, and thus, he failed to allege sufficient facts for a legally cognizable claim. We therefore conclude that the district court did not err by granting the

⁷ The district court determined that it could not discern the date on which the lawsuit was commenced as to the city and the county based on the record before it. Thus, it was unable to determine whether Blackwell's section 1983 claims against the city and the county were barred by the six-year statute of limitations, and it declined to dismiss the lawsuit on that basis. We agree that the precise dates on which Blackwell delivered the summons and complaint to the sheriff for service on the city and the county are unknown, but it may have been as early as April 10, 2023. Thus, we cannot conclude on this record that the statute of limitations prohibits Blackwell from bringing these claims.

city's and the county's motions to dismiss Blackwell's section 1983 claims under rule 12.02.

C. Minn. Stat. § 611A.79

Blackwell next asserts that he is entitled to relief under Minn. Stat. § 611A.79, which creates a cause of action for a “person who is damaged by a bias offense . . . against the person who committed the offense.” Minn. Stat. § 611A.79, subd. 2. A bias offense is “conduct that would constitute a crime and was committed because of the victim’s or another’s actual or perceived race” *Id.*, subd. 1. Therefore, a plaintiff must allege facts that, if proved, would constitute a crime. A person may bring an action under this statute “regardless of the existence or outcome of criminal proceedings involving the bias offense.” *Id.*, subd. 3. Claims under Minn. Stat. § 611A.79 must be brought “no later than six years after the cause of action arises.” *Id.*, subd. 5.

1. Claims Against McDonald’s

As explained above, the sheriff’s affidavit of service on McDonald’s establishes that the sheriff received the summons and complaint from Blackwell on May 12, 2023, which is more than six years after the events occurred that gave rise to Blackwell’s claim. Because Blackwell did not commence this lawsuit within the applicable six-year limitations period, the district court did not err by dismissing Blackwell’s section 611A.79 claims against McDonald’s.

2. Claims Against the City and the County

Blackwell alleged that the city and the county committed crimes of false reporting in violation of Minn. Stat. § 609.505 (2016) and criminal defamation in violation of Minn. Stat. § 609.765 (2016).⁸

*False Reporting*⁹

To be charged with false reporting, a person must have provided information about another person's conduct to a law enforcement officer, knowing that the facts alleged were false and with the intent that the officer would rely upon the information. Minn. Stat. § 609.505, subd. 1. Blackwell alleges that the county dispatch staff sent officers to the McDonald's restaurant in response to the call from McDonald's staff and that, therefore, the dispatch staff made a false report to law enforcement officers. But Blackwell does not assert—or identify any facts that would indicate—that the dispatch officers knew that the report by McDonald's staff was false. Without this assertion on the face of the complaint, we must conclude that Blackwell did not allege the facts necessary to support a claim under section 611A.79.

⁸ We do not review claims that a party failed to raise in district court or that are not properly presented to this court. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). Blackwell's civil complaint in district court and his brief to this court cite various statutes, but the only two that appear in both are the statutes for false reporting and criminal defamation. Thus, we consider only those two arguments here.

⁹ As with the section 1983 claims against the city and the county, whether the lawsuit was timely commenced cannot be discerned from the existing record. And we therefore agree with the district court's determination that the six-year statute of limitations does not provide a basis to dismiss Blackwell's section 611A.79 claims as to the city and the county.

Criminal Defamation

To be convicted of criminal defamation, a person must have communicated false information to a third party without the consent of the person defamed and the information must have exposed the defamed person to hatred, contempt, ridicule, degradation, or disgrace. Minn. Stat. § 609.765, subds. 1-2. As with false reporting, Blackwell's complaint does not allege facts that, if proved, would constitute criminal defamation because it does not assert that any city or county employee knew the information they received or communicated was false. Because there is no way to construe the facts alleged in Blackwell's complaint to support his claims for relief under Minn. Stat. § 611A.79, we conclude that the district court did not err by granting the city's and the county's motions to dismiss for failure to state a claim under rule 12.02(e).

In sum, the district court did not err when it dismissed Blackwell's complaint pursuant to rule 12.02(e) because (1) all of his MHRA claims were barred by the applicable statute of limitations, (2) all of his remaining claims against McDonald's were also barred by the applicable statute of limitations, and (3) Blackwell's claims against the city and the county pursuant to section 1983 and section 611A.79 fail to state a claim upon which relief may be granted.

Affirmed.