

*This opinion is nonprecedential except as provided by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
A25-2219**

Susan Thompson,
Appellant,

vs.

Paul Schnell, Commissioner, Department of Corrections, et al.,
Respondents.

**Filed October 12, 2026
Affirmed
Bratvold, Judge**

Ramsey County District Court
File No. 62-CV-24-7971

Kevin C. Riach, The Law Firm of Kevin C. Riach, PLLC, Minneapolis, Minnesota (for appellant)

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Considered and decided by Rasmusson, Presiding Judge; Bratvold, Judge; and Slieter, Judge.*

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

Appellant has registered as a predatory offender since August 2010, following her conviction for fourth-degree criminal sexual conduct. In 2024, appellant sued respondents,

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

seeking declaratory and injunctive relief for state and federal substantive and procedural due-process violations based on the lifetime predatory-offender registration requirement set out in Minn. Stat. § 243.166, subd. 6(d) (2024). This appeal challenges the district court’s dismissal of her complaint under Minnesota Rule of Civil Procedure 12.02(e) as barred by the statute of limitations. Because the district court correctly determined that the six-year limitations period expired before appellant commenced suit, we affirm.

FACTS

The following summarizes the factual allegations in the complaint along with undisputed facts and relevant procedural history.

In 2010, appellant Susan Thompson pleaded guilty to fourth-degree criminal sexual conduct. During the plea hearing, Thompson acknowledged that she “knew her husband wanted to confront” a man with whom she had been having an affair. Thompson agreed that she had “enticed [the man] to come to her home so that her husband could confront him and hold him against his will to intimidate him,” and she admitted to “engag[ing] in sexual contact with [the man] while her husband was holding [the man] against his will.” The district court sentenced Thompson to 90 months in prison, stayed for ten years, and imposed two years of electronic home monitoring. Thompson successfully completed her probation and was discharged in July 2020.

Based on her 2010 conviction, Thompson was required to register as a predatory offender for life under Minn. Stat. § 243.166, subd. 6(d)(3). It is undisputed that Thompson

registered as a predatory offender for the first time on August 3, 2010.¹ Thompson satisfied the registration requirements “annually since her conviction.”

In December 2024, Thompson sued respondents Paul Schnell, in his official capacity as the commissioner of the Minnesota Department of Corrections, and Drew Evans, in his official capacity as the superintendent of the Minnesota Bureau of Criminal Apprehension (BCA).²

Thompson’s complaint alleges that “Minnesota provides no internal review or other administrative or statutory mechanism by which a registered predatory offender can challenge the duration or necessity of ongoing predatory offender registration.” And it alleges that, “[a]bsent some review mechanism,” the “lifetime registration statute does not comport with the due process protections of the Minnesota and United States Constitutions.” The complaint also alleges that the predatory-offender registration requirement has prevented Thompson from “seeking employment, further education, and

¹ Thompson’s complaint alleges that “she learned shortly after pleading guilty that she would be subject to a lifetime registration” requirement under the statute. Her complaint also alleges that she was “shocked” to learn of the lifetime registration requirement and that her trial counsel told her at the plea hearing that her registration requirement “would run only ten years, concurrent with her term of probation.”

The record shows that, in 2023, Thompson moved to withdraw her guilty plea on the grounds that it was invalid because she was unaware of the lifetime registration requirement when she pleaded guilty. The district court treated Thompson’s motion as a request for postconviction relief and denied it as time-barred. Thompson’s request for postconviction relief is not before us.

² Respondents argue that the department of corrections has “no authority over [Thompson’s] statutory registration requirement or the administration of it.” Because we affirm the district court’s order dismissing Thompson’s complaint on other grounds, we need not address this argument.

financial services” and from “leaving her spousal relationship, which is characterized by emotional abuse and control.”

Thompson’s complaint seeks a declaratory judgment under the Minnesota Uniform Declaratory Judgments Act, Minn. Stat. § 555.01-.16 (2024), that the lifetime registration requirement violates the procedural and substantive due-process guarantees of the Minnesota and United States constitutions. The complaint also seeks an injunction under 42 U.S.C. § 1983 (2018) barring respondents from requiring Thompson to comply with the registration requirement.

Respondents moved to dismiss Thompson’s complaint on statute-of-limitations grounds and for failure to state a claim upon which relief can be granted. After the hearing, the district court’s order granted respondents’ motion because it concluded that Thompson’s claims are time-barred. The district court’s written analysis determined that Thompson’s complaint fails to allege facts demonstrating “a continuing violation of her constitutional rights,” rejected Thompson’s analysis of recent Minnesota Supreme Court caselaw, and disagreed that the “pure defense” exception applied to her claims.

Thompson appeals.

DECISION

Appellate courts “review de novo a motion to dismiss for failure to state a claim.” *Werlich v. Schnell*, 958 N.W.2d 354, 363 (Minn. 2021). “[A] motion to dismiss should be granted only when it is clear from the stated allegations in the complaint that the statute of limitations has run.” *Hansen v. U. S. Bank Nat’l Ass’n*, 934 N.W.2d 319, 326 (Minn. 2019). “[A] pleading will be dismissed only if it appears to a certainty that no facts, which could

be introduced consistent with the pleading, exist which would support granting the relief demanded.” *Halva v. Minn. State Colls. & Univs.*, 953 N.W.2d 496, 501 (Minn. 2021) (quotation omitted). “When conducting our review, we consider only the facts alleged in the complaint, accepting those facts as true and must construe all reasonable inferences in favor of the nonmoving party.” *Bahr v. Capella Univ.*, 788 N.W.2d 76, 80 (Minn. 2010) (quotation omitted); Minn. R. Civ. P. 12.02(e) (allowing a defense by motion for failure to state a claim upon which relief can be granted).

The limitations period that applies to Thompson’s claims is six years. *See Franklin v. Evans*, 992 N.W.2d 379, 382-83, 385 (Minn. 2023) (affirming dismissal of a complaint asserting section 1983 and declaratory-judgment claims and applying a six-year limitations period). The United States Supreme Court has held that “all § 1983 suits must be brought within a State’s statute of limitations for personal-injury actions.” *Nance v. Ward*, 142 S. Ct. 2214, 2225 (2022). In Minnesota, a claim “for any other injury to the person or rights of another” must be brought within six years. Minn. Stat. § 541.05, subd. 1(5) (2024).

“Generally, the statute of limitations begins to run on a claim when the cause of action accrues.” *Franklin*, 992 N.W.2d at 385 (quotations omitted); *see also* Minn. Stat. § 541.01 (2024) (stating that actions must be commenced within the statutory limitations period “after the cause of action accrues”). “A cause of action accrues when all of the elements of the action have occurred, such that the cause of action could be brought and would survive a motion to dismiss for failure to state a claim.” *Franklin*, 992 N.W.2d at 385 (quoting *Park Nicollet Clinic v. Hamann*, 808 N.W.2d 828, 832 (Minn. 2011)).

Here, the parties disagree on when the limitations period for Thompson’s claims began to run—i.e., when her claims accrued—and whether the period was tolled.³ Thompson argues that her action was commenced within the six-year limitations period and offers four arguments in support. First, she argues that, due to changed circumstances, her due-process claims accrued sometime after her initial predatory-offender registration in 2010. Second, she contends that the statute of limitations is tolled because the predatory-offender registration requirement is a continuing violation of her constitutional rights. Third, Thompson maintains that, under the “pure defense” doctrine, she may invoke constitutional claims that would otherwise be barred by the statute of limitations. And fourth, she asserts that the limitations period began in 2020, when the legislature “materially changed” the predatory-offender registration statutes, and therefore her claims are timely.⁴

³ Tolling “stops the running of the statute of limitations” and “lengthens the time for commencing a civil action in appropriate circumstances.” *State of Minn. Off. of Att’y Gen. v. Madison Equities, Inc.*, 29 N.W.3d 700, 707 (Minn. 2026).

⁴ On appeal, Thompson also argues that the predatory-offender registration statute violates her substantive and procedural due-process rights. The district court did not reach Thompson’s argument on the merits; nor do we. That said, we observe that we recently rejected a nearly identical argument in *Jefferson v. Evans*, a nonprecedential opinion applying precedential caselaw. No. A23-1622, 2024 WL 2814453, at *2-5 (Minn. App. June 3, 2024), *rev. denied* (Minn. Sept. 17, 2024). Nonprecedential opinions may be cited as persuasive authority. Minn. R. Civ. App. P. 136.01, subd. 1(c).

This court rejected Jefferson’s substantive due-process challenge to the predatory-offender registration statute. *Jefferson*, 2024 WL 2814453, at *3. In doing so, we stated that we “declin[ed] to stray from the binding caselaw that has determined that the registration requirements satisfy the rational-basis test for a substantive-due-process claim.” *Id.* (first citing *Boutin v. LaFleur*, 591 N.W.2d 711, 716-17 (Minn. 1999); then citing *Thibodeaux v. Evans*, 926 N.W.2d 602, 606-07 (Minn. App. 2019); and then citing *Bedeau v. Evans*, 926 N.W.2d 425, 432 (Minn. App. 2019)). We also rejected Jefferson’s

We address each of Thompson’s arguments in turn.

A. Thompson’s changed-circumstances argument is unavailing.

Thompson argues that her constitutional claims “did not accrue until the statute no longer bore a ‘rational relation’ to the public purpose sought to be served by her registration.” She maintains that she “lacked a due process claim at the time of her guilty plea” and that her “due-process claim arose after the passage of time, at which point her age and changed circumstances, including successful completion of therapy and lengthy period of law-abiding conduct, rendered her ongoing registration requirement irrational under the law and thus unconstitutional.” Thompson’s argument fails for two reasons.

First, Thompson’s accrual argument is inconsistent with Minnesota caselaw. In *Franklin*, the supreme court analyzed the accrual of similar section 1983 and declaratory-judgment claims that challenged the constitutionality of the ten-year predatory-offender registration requirement set out in Minn. Stat. § 243.166, subd. 6(a) (2022). 992 N.W.2d at 384-85. In doing so, the supreme court applied the test for accrual set out in *Hamann*—“a cause of action accrues when all of the elements of the action have occurred, such that the cause of action could be brought and would survive a motion to dismiss for failure to state a claim.” *Id.* (quoting *Hamann*, 808 N.W.2d at 832). The supreme court determined that, “[f]or Franklin, the act giving rise to these ongoing duties” under the predatory-offender registration statute “was the BCA’s initial determination that

procedural due-process argument, relying on binding caselaw in which we held that the registration requirement “imposed ‘only a minimal burden on offenders.’” *Id.* at *4 (quoting *Bedeau*, 926 N.W.2d at 432).

he must register as a predatory offender.” *Id.* at 387. Franklin’s constitutional claims therefore accrued “when he was first required to register as a predatory offender because all the facts and circumstances of his case existed such that the cause of action could have been brought and would survive a motion to dismiss for failure to state a claim.” *Id.* (quotation omitted).

Similar reasoning applies to the accrual of Thompson’s constitutional claims. The BCA made an “initial determination” when it required Thompson to register in 2010. *Id.* Thompson’s complaint alleges no new acts by the BCA after this initial determination. Thus, Thompson’s constitutional claims accrued when she was first required to register in 2010, and her action commenced more than six years later. *See id.*

Thompson disagrees, arguing that “indefinite registration with no avenue for review once the limitations period has passed violates due process.” Thompson contends that the supreme court in *Franklin* left “room” for the constitutional claims she now asserts. The supreme court acknowledged Franklin’s argument that, “if the statute of limitations does not apply to extensions of the registration period, the State could extend a person’s registration indefinitely, and the person would be prohibited from ever challenging the registration requirements after the limitations period has ended.” *Id.* at 388-89. The supreme court added that Franklin “makes no such allegation here.” *Id.* at 389.

But we are not persuaded that Thompson’s lifetime registration period, along with her claim that she has “no avenue for review,” support a different accrual date for her constitutional claims. The district court concluded that there was a “principled difference” between this case and *Franklin* because Franklin’s ten-year registration requirement was

extended, while Thompson “has always known . . . that registration was a lifetime obligation.”

We agree with the district court. The test for accrual is “when all of the elements of the action have occurred.” *Id.* at 385. For Thompson, all of the elements of her constitutional challenges to the lifetime predatory-offender registration requirement occurred when the BCA imposed the requirement in 2010. As the supreme court summed up in *Franklin*, “[t]he fact that the limitations period for challenging [Franklin’s] initial registration has passed, as well as the fact that the continuing registration requirements are only continuing effects of Franklin’s initial registration,” support dismissal of the constitutional claims as untimely. *Id.* at 389. So too, the limitations period for Thompson to challenge her lifetime registration requirement has passed and the changed circumstances she alleges in her complaint are “only continuing effects.” *Id.*⁵

Second, even if we assume that Thompson’s constitutional claims accrued at the time her circumstances changed, Thompson’s complaint does not allege any changed circumstances within six years of commencing this suit. Indeed, her brief to this court does

⁵ Additionally, Thompson cites no caselaw, and we are aware of none, in which a constitutional challenge to a statute accrued based on a claimant’s change in circumstances. Thompson appears to make a good-faith argument for the extension of the law by citing caselaw from outside this jurisdiction in which appellate courts have concluded that a person required to register must be afforded the opportunity for review in order to determine their present level of risk. *See Powell v. Keel*, 860 S.E.2d 344, 351-52 (S.C. 2021); *In re Int. of J.B.*, 107 A.3d 1, 19 (Pa. 2014); *State v. Guidry*, 96 P.3d 242, 255 (Haw. 2004). We observe that none of these cases directly involved accrual or the extension of time to file a claim. And in any event, we are not persuaded to rule in Thompson’s favor because doing so would be contrary to Minnesota Supreme Court precedent established in *Franklin*.

not identify on what date her claims accrued. The only specific changed circumstance alleged in Thompson’s complaint is her therapist’s 2013 assessment that Thompson had “benefitted from psychotherapy and her risk of reoffending is extremely low, if at all.” Even if we assume this 2013 circumstance marked the accrual of Thompson’s constitutional claims against respondents, the six-year limitations period nonetheless expired before Thompson commenced this suit in 2024.

Because Thompson’s changed-circumstances argument is inconsistent with Minnesota caselaw, and because Thompson fails to allege any changed circumstances within six years of commencing her 2024 complaint, we conclude that the district court did not err in concluding that Thompson’s claims were barred by the statute of limitations.

B. The supreme court rejected Thompson’s continuing-violation argument in *Franklin*.

Thompson argues that the “ongoing unconstitutional application of the [predatory-offender registration] statute constitutes a continuing violation that tolls the statute of limitations under Minnesota law.” Thompson maintains that “it is the ongoing denial of [her] right to seek removal from the registry due to her changing circumstances that violates her rights.” “The continuing violations doctrine is an equitable doctrine that can toll the statute of limitations where a pattern of discriminatory conduct constitutes a sufficiently integrated pattern to form, in effect, a single discriminatory act.” *Abel v. Abbott Nw. Hosp.*, 947 N.W.2d 58, 70 (Minn. 2020) (quotation omitted).

In *Franklin*, the supreme court rejected a continuing-violation argument similar to Thompson’s. 992 N.W.2d at 386-88. The supreme court stated that the continuing-violation

doctrine did not apply to Franklin's constitutional challenge to the ten-year predatory-offender registration statute. *Id.* at 388. The supreme court reasoned that the ongoing obligations associated with registration that form the basis of Franklin's complaint are the "continuing *effects* of registration that flow from the [statute], not any additional *acts* by the BCA." *Id.* at 387.

The same reasoning applies to Thompson's continuing-violation argument. Her ongoing registration obligation and its collateral consequences are a "continuing effect[]" that flows from "the BCA's initial, single determination" requiring Thompson to register. *Id.* Thompson's complaint alleges no "pattern of discriminatory conduct" on the part of the BCA. *Abel*, 947 N.W.2d at 70. As explained above, Thompson's complaint alleges no new act by the BCA after 2010. Thus, we reject Thompson's continuing-violation argument.

C. Thompson's pure-defense argument fails.

Thompson also maintains that her claims are not barred by the statute of limitations because of the "pure defense" doctrine. She argues that her claims are "essentially defensive in nature" because "[s]he seeks protections from the obligations of the registration law as opposed to damages or some other affirmative relief." Respondents counter that Thompson "is seeking affirmative relief and is not raising a pure defense."

"The general rule is that the statute of limitations may be used as a shield, not as a sword, and that the statute of limitations does not bar a party from raising a *pure defense*." *Reynolds v. Reynolds*, 458 N.W.2d 103, 105 (Minn. 1990). Therefore, the pure-defense doctrine allows a party to assert certain defenses, even when the limitations period for bringing an affirmative action on the same grounds has expired. *See id.*

Respondents are correct that Thompson’s complaint seeks affirmative relief. Thompson’s complaint states that she is seeking “[a] judgment declaring that Minnesota Statutes Section 243.166 violates the Minnesota and United States Constitutions,” “[a]n injunction barring [Respondents] from requiring that [Thompson] register as a predatory offender or otherwise enforcing Minnesota’s predatory offender registration laws against [Thompson],” and “[a]n award of such other and further relief as the Court deems equitable and just.” Because Thompson seeks affirmative relief and is not defending against claims by respondents, the pure-defense doctrine does not apply.

Even if we accept Thompson’s premise that her claims are “essentially defensive,” the pure-defense doctrine applies in narrow circumstances and no caselaw has extended the doctrine to claims analogous to those in Thompson’s complaint.⁶ Minnesota appellate courts have applied the pure-defense doctrine in cases involving defenses to a child-support

⁶ In support of her position, Thompson cites a nonprecedential opinion and an order opinion. Nonprecedential opinions may be cited as persuasive authority. Minn. R. Civ. App. P. 136.01, subd. 1(c). Nonprecedential opinions and order opinions, however, are not binding authority, “except as law of the case, res judicata, or collateral estoppel.” *Id.* In any event, neither of the opinions helps Thompson’s position. The order opinion cited by Thompson concluded that the pure-defense doctrine did *not* apply to save an untimely claim for affirmative relief. *Walker v. City of Afton*, No. A24-1760, 2025 WL 1683459, at *3 (Minn. App. June 11, 2025) (“Because Walker initiated this action and requested a declaration that he may use the airstrip on his property, his promissory-estoppel claim does not appear to be a ‘pure defense’”), *rev. denied* (Minn. Aug. 27, 2025). The nonprecedential opinion cited by Thompson relates to mortgage foreclosure and is of limited persuasive value for the reasons stated in this opinion’s discussion of *Weavewood, Inc. v. S & P Home Investments, LLC*. *Westman v. Specialized Loan Servicing, LLC*, No. A23-1634, 2024 WL 3648465, at *4 (Minn. App. Aug. 5, 2024) (“Westman’s quiet-title claim, like the five claims in *Weavewood*, constitutes a pure defense to a foreclosure action.”).

claim, *Reynolds*, 458 N.W.2d at 105, and to mortgage foreclosure, *Weavewood, Inc. v. S & P Home Invs., LLC*, 821 N.W.2d 576, 581 (Minn. 2012).⁷ The pure-defense doctrine has been applied only to allow a defense to a claim commenced after the statute of limitations expired for the defendant's affirmative claim based on the same legal argument that supports the defense. For example, in *Reynolds*, a father was allowed to claim nonpaternity in a marriage-dissolution and child-support action, even though a declaration of nonparentage would have been outside the statute of limitations, because the challenge was "in defense to *someone else's action against him*." *Reynolds*, 458 N.W.2d at 105 (emphasis added).

Thompson offers no equitable basis for extending the pure-defense doctrine to her constitutional claims. She is not responding to a claim by the state or respondents. And, as explained, all of the facts and circumstances of Thompson's constitutional claims existed when the BCA initially required her to register as a predatory offender in 2010. Thus, Thompson could have commenced her complaint and sought affirmative relief within the six-year statute of limitations, but she did not do so. Thompson is therefore in no position to invoke the pure-defense doctrine to save her claims.

⁷ The supreme court endorsed the application of the pure-defense doctrine to mortgage-foreclosure cases in *Weavewood* but remanded the question of "whether *Weavewood's* complaint present[ed] any pure defenses." 821 N.W.2d at 581. On remand, this court concluded that "a mortgagor's challenge to the validity of the mortgage or foreclosure sale presents a pure defense so long as it is asserted *to prevent a pending foreclosure*." *Weavewood, Inc. v. S & P Home Invs., LLC*, No. A10-1762, 2013 WL 599125, at *1 (Minn. App. Feb. 19, 2013) (emphasis added).

Relatedly, Thompson argues that it is against public policy to apply the statute of limitations to her complaint because she could otherwise make this claim “if she first violated her registration requirements and was criminally charged.” She contends that “the Constitution cannot be construed to compel a person to commit a crime to vindicate their rights.”

We decline to consider whether Thompson may, in some future legal action, maintain that the predatory-offender registration statute is unconstitutional as a defense to a charge for violating the statute. Simply put, that claim is not before us. We decide only that Thompson’s complaint asserts constitutional claims under 42 U.S.C. § 1983 and Minn. Stat. § 555.01 and that these claims are barred by the six-year statute of limitations because they accrued in 2010 when the BCA imposed the predatory-offender registration requirement on Thompson.

D. Thompson’s argument about recent amendments to the predatory-offender registration statute is forfeited.

Thompson argues that the predatory-offender registration requirement “materially changed in 2020,” which is within the limitations period, and that therefore, her 2024 complaint was timely commenced. In support of this argument, Thompson cites *Werlich*, in which the supreme court discussed the effect of the 2020 amendments on a due-process challenge to the predatory-offender registration statute. 958 N.W.2d at 362 (stating that “additional consequences of registration” became “more substantial” in 2020). Thompson suggests that these amendments make her complaint timely because, otherwise,

a person subject to lifetime registration “could have their registration requirements changed with no ability to challenge the constitutionality of the amended statute.”

Thompson’s argument is not grounded in her complaint, which does not describe the 2020 amendments or challenge the constitutionality of those amendments. Nor does Thompson’s brief to this court explain how the 2020 amendments support her constitutional challenges to the registration statute as a whole. Thompson also does not cite any caselaw recognizing that statutory amendments restart the limitations period for a constitutional challenge to the statutory provisions that were not amended.

We conclude that this issue is inadequately briefed. Appellate courts may decline to reach issues that are inadequately briefed. *State Dep’t of Lab. & Indus. by the Special Comp. Fund v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997). And an assignment of error in a brief based on “mere assertion” and not supported by argument or authority is forfeited unless prejudicial error is obvious on mere inspection. *Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971).

No error is obvious to us on mere inspection. *See id.* Both the 2008 predatory-offender registration statute, which was effective at the time of Thompson’s offense, and the 2020 amendments referenced in Thompson’s brief require a person convicted of fourth-degree criminal sexual conduct to register for life. *Compare* Minn. Stat. § 243.166, subd. 6(d)(3) (2008) (requiring lifetime registration for persons convicted of fourth-degree criminal sexual conduct under Minn. Stat. § 609.345, subd. 1(c), among other offenses), *with* Minn. Stat. § 243.166, subd. 6(d)(3) (2020) (same). Because

it is not obvious that the 2020 amendments relate to Thompson's complaint or to the accrual of her causes of action, this argument is forfeited.

In sum, Thompson's constitutional claims asserted in her 2024 complaint accrued in 2010 when she was first required to register as a predatory offender. Therefore, Thompson's claims are untimely and her complaint failed to state a claim on which relief can be granted.

Affirmed.