

*This opinion is nonprecedential except as provided by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
A26-0093**

Richard Preston Blackwell,
Appellant,

vs.

Cub Foods, et al.,
Respondents.

**Filed July 13, 2026
Affirmed
Bond, Judge**

Hennepin County District Court
File No. 27-CV-25-9663

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

Daniel J. Supalla, Erika R. McClintock, Nilan Johnson Lewis PA, Minneapolis, Minnesota
(for respondents)

Considered and decided by Johnson, Presiding Judge; Bond, Judge; and Chutich,
Judge.*

* Retired justice of the Minnesota Supreme Court, serving as judge of the Minnesota Court of Appeals by appointment pursuant to Minn. Const. art. VI, § 10, and Minn. Stat. § 2.724, subd. 3 (2024).

NONPRECEDENTIAL OPINION

BOND, Judge

Appellant challenges the district court’s dismissal of his state-law claims against respondents as untimely, arguing that the applicable statutes of limitations were tolled by the filing of his federal action against respondents. We affirm.

FACTS

The Alleged Incident

Appellant Richard Preston Blackwell alleges that on July 26, 2018, he visited a Cub Foods grocery store in St. Paul. Appellant contends that, after he purchased items at self-checkout and moved toward the exit, a store employee grabbed his arm, accused him of stealing, refused to let him leave the store, and struck him in the chest and stomach.

Federal Court Action

Appellant subsequently filed a complaint in federal district court related to the July 26, 2018 incident, asserting federal claims under 42 U.S.C. § 1983 (2024) and Minnesota state-law claims against multiple defendants, including respondents Cub Foods and Supervalu, Inc.¹ *Blackwell v. Supervalu Inc.*, No. CV 24-2720 (JRT/DJF), 2024 WL 4654615, at *1 (D. Minn. Sept. 3, 2024), *aff’d*, No. 24-3202, 2025 WL 1232511 (8th Cir. Jan. 27, 2025). The record before us does not indicate the date on which appellant filed the federal action, and appellant does not contend that he served any of the defendants in

¹ The case caption in the federal action reflects that Blackwell sued, among others, “Supervalu Inc. Does,” “Cub Foods Does,” and “any affiliated companies, entities, or individuals, any shareholders, directors, officers, their successors, predecessors, assigns, insurers, agents, principals, attorneys, franchisors, and employees.”

the federal action, including respondents. Instead, appellant asserts that he delivered the summons to a United States Marshal for service.

On September 3, 2024, the federal district court dismissed appellant’s federal-law claims with prejudice for failure to state a claim upon which relief can be granted and dismissed his state-law claims without prejudice after declining to exercise supplemental jurisdiction. *Id.* at *2, *5. The Eighth Circuit summarily affirmed. *Blackwell v. SuperValu, Inc.*, No. 24-3202, 2025 WL 1232511, at *1 (8th Cir. Jan. 27, 2025).

Conciliation Court Action

On February 13, 2025, appellant filed this action against respondents in Minnesota conciliation court alleging claims of negligence and “crimes of bias.”² Appellant served the summons and complaint on respondents on March 6, 2025. Following a hearing, the conciliation court dismissed appellant’s claims.

District Court Action

On May 20, 2025, appellant removed the conciliation court judgment to the district court for a “trial de novo” pursuant to Minn. Gen. R. Prac. 521. The district court treated the complaint filed in conciliation court as the controlling pleading. *See* Minn. Gen. R. Prac. 522 (“The pleadings in conciliation court shall constitute the pleadings in district

² While appellant’s complaint alleged various other claims, including infliction of emotional distress, unlawful seizure, violations of the Minnesota Human Rights Act, Minn. Stat. §§ 363A.01-.50 (2024), discrimination, assault, battery, and false imprisonment, appellant later clarified that he intended for these allegations to be encompassed within his negligence claim.

court.”).³ The district court found that appellant had perfected his appeal and issued an order vacating the conciliation court’s judgment on June 30. *See* Minn. Gen. R. Prac. 521(d) (providing that, if the aggrieved party properly effects removal to the district court, “the court shall issue an order vacating the order for judgment in conciliation court”).

Respondents moved to dismiss appellant’s claims under Minn. R. Civ. P. 12.02(e), arguing that the claims were time-barred by the applicable statutes of limitations. In response, appellant maintained that his state-law claims were timely because the statutes of limitations were tolled during the pendency of his federal litigation pursuant to 28 U.S.C. § 1367(d) (2024).

Following a motion hearing that appellant did not attend, the district court determined that appellant’s claims were barred by the applicable statutes of limitations and granted respondents’ motion to dismiss appellant’s claims with prejudice.

This appeal follows.

DECISION

I. The district court did not err in granting respondents’ motion to dismiss because the statutes of limitations on appellant’s state-law claims were not tolled by 28 U.S.C. § 1367(d).

Appellant challenges the district court’s order granting respondents’ motion to dismiss his claims. We first address the applicable standard of review. This matter came before the district court as a rule 12 motion to dismiss for failure to state a claim. Minn. R. Civ. P. 12.02(e); *see also Oreck v. Harvey Homes, Inc.*, 602 N.W.2d 424, 427-28 (Minn.

³ Despite the complaint naming multiple other defendants, appellant’s claims in district court proceeded only against respondents.

App. 1999) (noting that a statute-of-limitations defense may be raised in a motion to dismiss), *rev. denied* (Minn. Jan. 25, 2000). However, the district court’s consideration of matters within the conciliation court record which were not included or referenced in the pleadings effectively converted the motion into one for summary judgment under rule 56. *See* Minn. R. Civ. P. 12.02 (stating that “[i]f, on a motion asserting the defense that the pleading fails to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56”). Because the district court considered matters outside the pleadings which were not referenced in the pleadings, we treat the district court’s order as one for summary judgment.

We review a district court’s grant of summary judgment *de novo*, analyzing whether there are any genuine issues of material fact and whether the district court correctly applied the law. *Riverview Muir Doran, LLC v. JADT Dev. Grp., LLC*, 790 N.W.2d 167, 170 (Minn. 2010). We view the evidence in the light most favorable to the party against whom summary judgment was granted. *STAR Ctrs., Inc. v. Faegre & Benson, L.L.P.*, 644 N.W.2d 72, 76-77 (Minn. 2002). Summary judgment shall be granted if the moving party shows that there is no genuine issue of material fact and they are entitled to judgment as a matter of law. Minn. R. Civ. P. 56.01. “A genuine issue of material fact exists when reasonable minds can draw different conclusions from the evidence presented.” *Rygwall, as Tr. for Rygwall v. ACR Homes, Inc.*, 6 N.W.3d 416, 427 (Minn. 2024).

A. Statutes of Limitations

We next consider which statute of limitations applies to appellant's claims and when those claims accrued. Appellate courts review the construction and application of statutes of limitations de novo. *Park Nicollet Clinic v. Hamann*, 808 N.W.2d 828, 831 (Minn. 2011).

Appellant does not dispute that his negligence claim is subject to a two-year statute of limitations, Minn. Stat. § 541.07(1) (2024), or that his "crimes of bias" claim is subject to a six-year statute of limitations, Minn. Stat. § 611A.79, subd. 5(b) (2024). And the parties appear to agree that appellant's state-law claims accrued on July 26, 2018, the day he was allegedly assaulted and detained by Cub Foods staff.

Appellant commenced a conciliation court action against respondents on February 13, 2025, by filing a statement of claim and an affidavit of inability to pay the requisite filing fees with the court administrator. *See* Minn. Gen. R. Prac. 505 (providing that a conciliation court action "is commenced against a defendant when a statement of claim . . . is filed with the court administrator of the conciliation court having jurisdiction and the applicable fees are paid to the administrator or the affidavit in lieu of filing fees prescribed in Rule 506 is filed with the administrator."). The commencement of appellant's district court action relates back to the date of commencement of the conciliation court action on February 13, 2025. *See Zirnhelt v. Carter*, 843 N.W.2d 270, 275 (Minn. App. 2014) (stating that a complaint filed in district court as a removal from conciliation court relates back to the date of commencement of the conciliation court action, not to the date on which the defendant was served). Because appellant's claims accrued on July 26, 2018, and

appellant commenced this action in conciliation court on February 13, 2025—6 years, 6 months, and 18 days later—appellant’s state-law claims are time-barred under the relevant two- and six-year statutes of limitations unless a statutory tolling provision applies.

B. Commencement of the Federal Action

Appellant argues that the statutes of limitations applicable to his state-law claims were tolled under 28 U.S.C. § 1367(d) when he commenced his federal court action. We disagree.

Federal district courts may exercise supplemental jurisdiction over state-law claims so related to federal-law claims that they form part of the same case or controversy. 28 U.S.C. § 1367(a) (2024). When a party brings a federal case asserting federal and state-law claims, the statutes of limitations for the state-law claims “shall be tolled while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period.” *Id.* (d). “The federal court need not exercise jurisdiction over the state claim for the statute of limitations to be tolled under 28 U.S.C. § 1367(d).” *Wallin v. Minn. Dep’t of Corr.*, 598 N.W.2d 393, 400 (Minn. App. 1999), *rev. denied* (Minn. Oct. 21, 1999).

In the United States District Court, a civil action is commenced by filing a complaint with the court. Fed. R. Civ. P. 3. But in cases in which a statute of limitations may bar a state-law claim, commencement of the federal action is determined by state law. *See Walker v. Armco Steel Corp.*, 446 U.S. 740, 752-53 (1980) (providing that in diversity-jurisdiction cases, “state service requirements which are an integral part of the state statute of limitations should control in an action based on state law which is filed in federal court”);

Wallin, 598 N.W.2d at 400 (applying the above proposition from *Walker* to cases involving federal question jurisdiction). Therefore, “for purposes of determining whether a state claim is time-barred, commencement of a suit is governed by Minn. R. Civ. P. 3.01(a).” *Wallin*, 598 N.W.2d at 401.

Under the Minnesota Rules of Civil Procedure, a civil action against a defendant commences when either: the summons is served on the defendant, the defendant waives service, or the summons is delivered for service to a sheriff if the sheriff serves the summons on the defendant within 60 days of delivery. Minn. R. Civ. P. 3.01. Appellant concedes that he never served respondents with his federal complaint. And appellant does not contend that respondents waived service or that he delivered the summons to a sheriff who served the summons on respondents within 60 days. Thus, because appellant failed to comply with Minnesota commencement rules, 28 U.S.C. § 1367(d) does not apply to toll appellant’s state-law claims. *See Wallin*, 598 N.W.2d at 400-01.

Appellant relies on *Artis v. District of Columbia*, 583 U.S. 71 (2018), to assert that 28 U.S.C. § 1367(d) suspended the statutes of limitations applicable to his state-law claims while those claims were pending in federal court and for 30 days thereafter. But *Artis* did not consider the question before us in this case: whether tolling of state statutes of limitations periods had commenced under 28 U.S.C. § 1367(d). Rather, *Artis* concerned whether the word “tolled,” as used in 28 U.S.C. § 1367(d), meant that the state limitations period is suspended during the pendency of the federal suit or whether it meant that, although the state limitations period continues to run, a plaintiff is awarded a 30-day grace

period to refile in state court after dismissal of the federal case. 583 U.S. at 74. Accordingly, appellant's reliance on *Artis* is unavailing.

We therefore conclude that the tolling provisions of 28 U.S.C. § 1367(d) do not apply and appellant's state-law claims are barred by the applicable two- and six-year statutes of limitations. Minn. Stat. §§ 541.07(1), 611A.79, subd. 5(b). Because no genuine issues of material fact exist as to whether appellant's state-law claims are time-barred, the district court did not err when it dismissed appellant's complaint. See *Montemayor v. Sebright Prods., Inc.*, 898 N.W.2d 623, 628 (Minn. 2017).

II. Appellant's remaining arguments are not within our scope of review.

Appellant raises additional claims of errors concerning the conciliation court proceedings, including the denial of his request that a district court judge rather than a referee preside over his conciliation court case and respondent's alleged failure to present testimony.

We generally only consider issues presented to, and considered by, the district court. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). When a party perfects removal from conciliation court to district court, the district court vacates the conciliation court judgment and holds a "trial de novo (new trial)." Minn. Gen. R. Prac. 521(a), (d). Removal from conciliation court commences a new civil action in district court, and "the district court is not required to give deference to the conciliation court's decision nor is it bound by the conciliation court's rules of practice." *Nicollet Restoration, Inc. v. Turnham*, 475 N.W.2d 508, 510 (Minn. App. 1991), *aff'd*, 486 N.W.2d 753 (Minn. 1992). And when a district court tries a case de novo, it tries the case "as if it had not been tried before." *Stronge &*

Lightner Co. v. Comm'r of Taxation, 36 N.W.2d 800, 807 (Minn. 1949). Because the district court conducted a trial de novo, any errors in the conciliation court proceeding are not within our scope of review and we do not consider them.

Affirmed.