IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

COMPLETE TITLE OF CASE

RYLAN BRANTL,

Appellant,

v.

THE CURATORS OF THE UNIVERSITY OF MISSOURI,

Respondent.

DOCKET NUMBER WD83667

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DATE: December 22, 2020

APPEAL FROM

The Circuit Court of Boone County, Missouri
The Honorable Jodie C. Asel, Judge

JUDGES

Division One: Chapman, P.J., and Pfeiffer and Thomson, JJ. CONCURRING.

ATTORNEYS

George S. Smith, Columbia, MO, Attorney for Appellant.

Emily W. Little and Paul R. Maguffee, University of Missouri Office of General Counsel, Columbia, MO, Attorneys for Respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

RYLAN BRANTL, Appellant,
v.
THE CURATORS OF THE UNIVERSITY OF MISSOURI, Respondent.

WD83667 **Boone County**

Before Division One Judges: Thomas N. Chapman, Presiding Judge, and Mark D. Pfeiffer and W. Douglas Thomson, Judges

Dr. Rylan Brantl ("Dr. Brantl") appeals from the judgment of the Circuit Court of Boone County, Missouri ("trial court"), granting the motion of The Curators of the University of Missouri ("University") to dismiss Dr. Brantl's first amended petition and dismissing the petition with prejudice. Dr. Brantl asserts that the trial court erred in dismissing his first amended petition on the grounds that it was barred by Missouri's five-year statute of limitations. He also asserts that the trial court erred in dismissing his first amended petition because his claims should have been equitably tolled by the trial court since the five-year statute of limitations had run before he became aware that the University was asserting Eleventh Amendment immunity in the federal court action.

AFFIRMED.

Division One holds:

1. In Missouri, the period of limitations for a contract action is five years. § 516.120(1), RSMo. The statutory time limit begins to run "when the damage resulting [from the wrong] is sustained and is capable of ascertainment." § 516.100, RSMo. On January 27, 2013, Dr. Brantl filed a grievance after receiving notice that his residency would be terminated. Dr. Brantl was on notice at that time that his employment with the University would end, and he reasonably should have known that an injury and substantial damage may have occurred. The termination of his residency on June 30, 2013, did not cause any of his claims to accrue; it simply made his alleged damages more knowable. Dr. Brantl filed his complaint in federal court on June 28, 2018, which was beyond the five-year limitation period, and section 516.120(1) bars his claims. The trial court did not err in dismissing Dr. Brantl's first amended petition on the grounds that it was barred by Missouri's five-year statute of limitations.

2. Dr. Brantl did not raise the equitable tolling argument in his first amended petition, or in his suggestions in opposition to the University's motion to dismiss, or at the hearing on the University's motion to dismiss. Arguments not raised before the trial court are not preserved for review on appeal.

Opinion by: Mark D. Pfeiffer, Judge December 22, 2020

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED