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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

JOHNNIE J. JUDKINS,)	Appeal from the Circuit Court
)	of Cook County.
Plaintiff-Appellant,)	
)	
v.)	No. 13 L 301
)	
HOLSTEN MANAGEMENT CORPORATION,)	The Honorable
)	Kathy M. Flanagan,
Defendant-Appellee.)	Judge Presiding.

PRESIDING JUSTICE PUCINSKI delivered the judgment of the court.
Justices Lavin and Hyman concurred in the judgment.

ORDER

¶ 1 *Held: Pro se* plaintiff's personal injury complaint was properly dismissed as untimely when it was filed after the applicable two-year statute of limitations.

¶ 2 *Pro se* plaintiff Johnnie Judkins filed her complaint against defendant Holsten Management Corporation on January 10, 2013. Judkins sought compensation for injuries she sustained on January 7, 2011, in the lobby of her residence at Hilliard Senior Apartments, a senior residence building managed by defendant. On defendant's 2-619 and 13-202 motion (735 ILCS 5/2-619(a)(5) (West 2012) and 735 ILCS 5/13-202 (West 2012)), the circuit court

dismissed her complaint with prejudice because she did not file it within the two-year statute of limitations for personal injury. Judkins asks this court to reverse because of the circumstances leading to her late filing.

¶ 3 Unfortunately for *pro se* plaintiffs like Judkins, a court may not judicially extend the statute of limitations beyond the time which has been established by the legislature, no matter how it happened that the complaint was filed late.

¶ 4 Judkins asserts that on the last day of the running of the statute of limitations, she was in the Daley Center on January 7, 2013, to file her complaint but did not have the necessary \$370 filing fee. She was told that she could apply for a waiver of fees and was given the forms. We do not know from the record why she did not immediately complete the forms to apply for the waiver, see the presiding judge, and file her complaint on January 7, 2013, or whether anyone told her that there was help available for *pro se* litigants in the Daley Center, that the Elder Court on the concourse level of the Daley Center was specifically designed to assist senior citizens, or that she could go right up to the office of the presiding judge of the Law Division for her waiver application to be considered. Although we know from the documents she filed for her appeal that she apparently went home to complete the waiver application, we do not know if that was because she needed assistance, because her financial records were at her home, or because it was too late in the day to complete the waiver application and get it to the presiding judge. The circuit court's order indicates that Judkins called the clerk of the circuit court on January 8, 2013, and was told she could take the waiver application to Room 2005. The record indicates that she returned to the Dalen Center on January 10, 2013, and obtained approval for her fee waiver and that she filed her complaint on that date. What no one seems to have told her was that after

January 7, 2013, the order granting the fee waiver and any changes to her complaint would not be sufficient to extend the two-year statute of limitations.

¶ 5 Judkins was denied meaningful access to justice because she did not have the filing fee. The fact that she did not ask the right questions or gave incomplete information is of no comfort.

¶ 6 The circuit court applied the right rule and applied it correctly. That does not mean that the court system in Cook County or in Illinois has not let Judkins down.

¶ 7 Judkins, an elderly woman who has been injured comes to the center of justice in Cook County and—can it be that no one points her to the Elder Court services? No one helps her rush through the waiver application so that she can timely file her complaint? No one offers to walk her over to a *pro se* help desk for assistance? Surely we can do better.

¶ 8 Judkins argues that she tried to file her complaint on time and that circumstances resulted in the late filing. She asks this court to consider those circumstances. There is no statute, rule, or case that gives this court permission to do so, no matter how compelling her circumstances.

¶ 9 Judkins has indicated that we should consider a longer filing period under a theory of disability; however, there is nothing in the record to indicate that she is a person who is under a *legal* disability which might have saved this complaint. Section 13-211 of the Code of Civil Procedure (735 ILCS 5/13-211 (West 2012)) tolls the statute of limitations for minors and persons who are under a legal disability. *In re Doe*, 301 Ill. App. 3d 123, 126 (1998). On the record before this court, we cannot tell, for example, if what she has termed a disability prevented her from *legally* filing any earlier. See *In re Doe*, 301 Ill. App. 3d at 127 (where a legal disability is alleged, the record must contain sufficient allegations of fact which could support that conclusion). A physical disability, for example, being blind or handicapped, is not a *legal* disability when considering the statute of limitations. *In re Doe*, 301 Ill. App. 3d at 127. In

a personal injury case like this one, "a person is not legally disabled if he or she can comprehend the nature of the injury and its implications." *In re Doe*, 301 Ill. App. 3d at 127 (citing *Sille v. McCann Construction Specialties Company*, 265 Ill. App. 3d 1051, 1055 (1994)).

¶ 10 Further, no matter how hard we look, we can find no authority to extend the time because she attempted to file on time and was thwarted by the price and rules of the court.

¶ 11 In short, Judkins had two years to file her complaint and for a variety of reasons she did not. She has stated that she injured her knee, hip and thumb, all difficult injuries for a senior citizen, and that her expenses are significant. But even though we are concerned about the circumstances of her late filing, we must affirm the decision of the trial court.

¶ 12 Although Judkins did not comply with the supreme court rules governing appellate review, by failing to cite any legal authority and failing to provide a sufficient record, we choose to consider this appeal because we have the benefit of the trial judge's order and the appellee's brief. See *Harvey v. Carponelli*, 117 Ill. App. 3d 448, 451 (1983).

¶ 13 This court reviews *de novo*—that is, looking at everything the trial judge considered—the trial court's decision to grant the defendant-appellee's motion to dismiss pursuant to section 2-619. *Porter v. Decatur Memorial Hospital*, 227 Ill. 2d 343, 352 (2008).

¶ 14 The applicable statute of limitations for an action for injury to a person is two years from the time the cause of action accrues. See 735 ILCS 5/13-202 (West 2012) ("[a]ctions for damages for an injury to the person * * * shall be commenced within 2 years next after the cause of action accrued").

¶ 15 Although Judkins contends that she exercised "more than reasonable diligence" in her attempts to file her complaint in a timely manner and that the circuit court effectively waived the statute of limitations by granting her leave to sue or defend without the filing fees, she has not

offered, nor can we find any statute, rule, or case that supports her theory that she is exempt from the statute of limitations because of the date the waiver of fees order was entered. The doctrine of equitable tolling allows a court to excuse a plaintiff's noncompliance with a statute of limitations where the plaintiff cannot reasonably be expected to file suit on time because of disability, irremediable lack of information, or other circumstances beyond her control. *Hart v. Loan Kieu Le*, 2013 IL App (2d) 121380, ¶ 5. However, given the incompleteness of the record, we do not know what information, if any, the circuit court received from the clerk's office regarding the circumstances resulting in Judkins's late filing, and we do not know whether the parties presented evidence regarding whether equitable tolling was appropriate; under these circumstances, we must assume that the circuit court's dismissal of the complaint with prejudice was supported by a sufficient factual and legal basis. *Hart*, 2013 IL App (2d) 121380, ¶ 12.

¶ 16 We understand the harshness of this result especially since Judkins pursued this claim without benefit of counsel. However, a *pro se* litigant, no matter how compelling, is still required to meet the basic rules of appellate procedure. *In re Estate of Pellico*, 394 Ill. App. 3d 1052, 1067 (2009).

¶ 17 The judgment of the circuit court of Cook County is affirmed.

¶ 18 Affirmed.