

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVE COLEMAN,

Appellant,

vs.

THE STATE OF NEVADA

DEPARTMENT OF CORRECTIONS;

ADAM P. LAXALT; E. K. MCDANIEL;

K. REYNOLDS; B. WALKER; AND E.


BACA,

Respondents.

No. 75165-COA

FILED

DEC 05 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Steve Coleman appeals from a district court order dismissing a prisoner complaint as time-barred. First Judicial District Court, Carson City; James E. Wilson, Judge.

Coleman alleged he was injured while working at his prison job at Northern Nevada Correctional Center in March 2015. He filed suit alleging torts relating to supervision in the workplace and his resulting pain and suffering relating to his injury in September of 2016, amending his original complaint in October 2016. Then in March of 2017, the district court dismissed Coleman's complaint for failure to properly serve his complaint and failure to name the State as a proper party under NRS Chapter 41. In April 2017, Coleman filed another complaint, naming the State and the Nevada Department of Corrections, as well as several individual correctional officers, for the same claims as his prior action. The district court dismissed Coleman's April 2017 complaint because it determined that he missed the two-year statute of limitations to bring his claims under NRS 11.190. This appeal followed.

Coleman argues on appeal that his grievance process prior to filing his initial complaint in 2016 tolled the two-year statute of limitations and that his April 2017 complaint was intended to be an amended

complaint, not a new suit altogether. The support Coleman cites in argument for tolling the time to file, *McCarthy v. Madigan*, 503 U.S. 140 (1992), does not address tolling and instead relates to a situation where the individual had not yet engaged in the grievance procedure and sought to avoid exhaustion of administrative remedies. That argument is irrelevant here as Coleman did utilize the grievance procedure prior to filing his first suit. As for the argument that his April 2017 complaint was meant to amend his earlier suit, the rules of civil procedure “cannot be applied differently merely because a party not learned in the law is acting pro se.” *Bonnell v. Lawrence*, 128 Nev. 394, 404, 282 P.3d 712, 718 (2012). The record shows that Coleman received the dismissal of his earlier suit, even agreeing with the dismissal grounds. Thus, he would not be allowed to amend or seek relation back under the Nevada Rules of Civil Procedure after the dismissal. See *Rodriguez v. Fiesta Palms, LLC*, 134 Nev. ___, ___, 428 P.3d 255, 258-59 (2018) (noting that a party is not relieved from consequences related to its ignorance of procedural requirements).

Considering the record, we agree with the district court that Coleman’s April 2017 suit was outside the statute of limitations in NRS 11.190. Accordingly, we

ORDER the judgment of the district court AFFIRMED.



_____, C.J.
Silver



_____, J.
Tao



_____, J.
Gibbons

cc: Hon. James E. Wilson, District Judge
Steve Coleman
Attorney General/Carson City
Attorney General/Las Vegas
Carson City Clerk