STATE OF MICHIGAN

COURT OF APPEALS

TIMOTHY WOOLRIDGE, next Friend of ADARRIUS WOOLRIDGE,

Plaintiffs,

and

VERONICA WOOLRIDGE and TIMOTHY WOOLRIDGE,

Plaintiffs-Appellants,

v

GRACE HOSPITAL and YOUL CHOI, M.D.,

Defendant-Appellees.

UNPUBLISHED
September 20, 1996

No. 187678
LC No. 94-423836-NH

Before: Cavanagh, P.J., and Murphy and C.W. Simon, Jr.,* JJ.

PER CURIAM.

Plaintiff appeals as of right an order of the circuit court granting partial summary disposition to defendant pursuant to MCR 2.116(C)(8) on this medical malpractice action.

This Court reviews de novo a lower court's ruling on a motion for summary disposition. *Borman v State Farm Fire & Casualty Co*, 198 Mich App 675,678; 449 NW2d 419 (1993), aff'd 444 Mich 935 (1994).

The undisputed facts of this case reveal that plaintiffs' claim of medical malpractice accrued on June 9, 1992, the date that plaintiff Veronica Woolridge gave birth to her son, Adarrius. The two-year statute of limitations, as provided in MCL 600.5805(4); MSA 27A.5805(4), expired on June 9, 1994. Plaintiffs sent out their mandatory letter of intent to file a medical malpractice claim, per MCL 600.2912b; MSA 27A.2912(2), on November 30, 1993. Therefore, when the 182-day period under §2912b expired on May 31, 1994, plaintiffs still had nine days in which to file their complaint under the

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* Circuit judge, sitting on the Court of Appeals by assignment.

general two-year statutory period. On appeal, plaintiffs contend that although the two-year statute of limitations for a medical malpractice action under MCL 600.5805(4); MSA 27A.58505(4) had expired, the doctrine of equitable tolling should allow their claim to be heard. We disagree.

This Court has recently held that "as a general rule, a limitation period is tolled only by a substantive restriction on the plaintiff's ability to bring an action in a timely manner, not by mere procedural or technical irregularities whose correction is within the control of the plaintiff. *Turner v Mercy Hosps & Health Servs of Detroit*, 210 Mich App 345, 349-350; 533 NW2d 365 (1995). Further, when the language of a statute is clear and unambiguous, no judicial interpretation is warranted. *Witherspoon v Guilford*, 203 Mich App 240, 247; 511 NW2d 720 (1994). We find here that a straightforward reading of the language of both MCL 600.5805(4); MSA 27A.58505(4) and MCL 600.2912b; MSA 27A.2912(2) reveals that the Michigan Legislature provided a precise formula for computing when the §5805(4) general statute of limitations period should be tolled, in language upon which reasonable minds could not differ. Plaintiffs failed to comply with the statutory provisions.[1]

Plaintiffs' further reliance on federal law to establish equitable tolling also fails, as federal courts use the doctrine only sparingly, and rarely in cases where, as here, the claimant has failed to exercise due diligence in preserving his legal rights. *Irwin v Dep't of Veterans Affairs*, 498 US 89; 111 S Ct 453; 112 L Ed 2d 435 (1990).

Affirmed.

/s/ Mark J. Cavanagh
/s/ William B. Murphy
/s/ Charles W. Simon, Jr.

[1] This case is completely distinguishable from *Morrison v Dickinson*, 217 Mich App 308; ___ NW2d ___ (1996).