

STATE OF MICHIGAN
COURT OF APPEALS

ROBERT TERRY,

Plaintiff-Appellant,

v

TRANSFIGURATION LUTHERAN CHURCH,
THE SOUTHEAST MICHIGAN SYNOD OF THE
EVANGELICAL LUTHERAN CHURCH OF
AMERICA, and REVEREND CHESMOND BADE,

Defendants-Appellees.

UNPUBLISHED

July 25, 1997

No. 191182

Wayne Circuit Court

LC No. 94-434802-NO

DONALD BOWERS,

Plaintiff-Appellant,

v

TRANSFIGURATION LUTHERAN CHURCH,
THE SOUTHEAST MICHIGAN SYNOD OF THE
EVANGELICAL LUTHERAN CHURCH OF
AMERICA, and REVEREND CHESMOND BADE,

Defendants-Appellees.

No. 191183

Wayne Circuit Court

LC No. 95-505272-NO

Before: Gribbs, P.J., and Holbrook, Jr., and J.L. Martlew*, JJ.

PER CURIAM.

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

In these consolidated cases, plaintiffs appeal as of right from the circuit court orders that granted defendants summary disposition on the basis that plaintiffs' claims were time-barred under the applicable statute of limitation. We affirm.

Plaintiffs first argue that, because there were express and unequivocal admissions of contact by defendant Bade, the holding in *Lemmerman v Fealk*, 449 Mich 56; 539 NW2d 504 (1995), is inapplicable to their claims. We disagree. Here, plaintiff Terry alleged that defendant Bade showered and saunaed with him in a public health club and abused, molested, and assaulted him when he was a minor. Terry also alleged that defendant Bade grabbed at Terry's crotch as he was leaving for the army. Although defendant Bade admitted that he had taken Terry with him several times to a public health club and showered and saunaed with Terry, defendant Bade emphatically denied that there was any sexual misconduct during these visits and denied engaging in any sexual impropriety. Plaintiff Bowers alleged in his complaint and at deposition that defendant Bade had twice lured him into the bathroom at defendant Church and raped him when he was a minor. Defendant Bade has denied that these acts occurred.

Because plaintiffs have failed to "take these cases out of the arena of stale and unverifiable claims," *Lemmerman*, *supra* at 77 n 15, we conclude that the claims are time-barred under MCL 600.5805; MSA 27A.5805 and MCL 600.5807; MSA 27A.5807. *Id.* at 63-64. Accordingly, the trial courts properly granted summary disposition in favor of defendants.

Plaintiffs also argue that the Michigan Supreme Court exceeded the scope of its authority in deciding that "repressed memory" is not a condition that would fit within the meaning of "insanity" so as to toll the statute of limitations under the insanity grace period, MCL 600.600.5851; MSA 27A.5851, and that the *Lemmerman* decision violated their right to equal protection of the law. This argument need not detain us long. Although it is true that "[t]he judicial act of the highest court of the State, in authoritatively construing and enforcing its laws, is the act of the State," *Twining v New Jersey*, 211 US 78, 90-91; 29 S Ct 14; 53 L Ed 97 (1908); *Shelley v Kraemer*, 334 US 1, 15; 68 S Ct 836; 92 L Ed 1161 (1948), thereby implicating the constitutional guaranties of due process and equal protection of the laws, *Brinkerhoff-Faris Trust & Savings Co v Hill*, 281 US 673, 680; 50 S Ct 451; 74 L Ed 1107 (1930), this Court has no authority to overturn a decision of the Michigan Supreme Court. See, e.g., *McMillan v Michigan State Highway Comm*, 130 Mich App 630, 635; 344 NW2d 26 (1983). Accordingly, we decline to address the merits of plaintiffs' constitutional claims.

Affirmed.

/s/ Roman S. Gribbs
/s/ Donald E. Holbrook, Jr.
/s/ Jeffrey L. Martlew