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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

KENT TAYLOR,

Plaintiff and Appellant,

v.

CITY OF EAST PALO ALTO et al.,

Defendants and Respondents.

A134522

**(San Mateo County
Super. Ct. No. CIV508026)**

Plaintiff and appellant Kent Taylor (appellant), in propria persona, appeals from the trial court's order dismissing his lawsuit following the court's order sustaining, without leave to amend, a demurrer filed by defendants and respondents City of East Palo Alto and the City of East Palo Alto Police Department (respondents). Because appellant's claims are untimely, we affirm.

BACKGROUND

Appellant filed suit against respondents in August 2011. According to the trial court's order sustaining respondents' demurrer,¹ appellant's causes of action are based on a February 4, 2009 arrest. In his brief on appeal, appellant asserts he was arrested without probable cause by City of East Palo Alto police officers.

In February 2012, the trial court sustained respondents' demurrer without leave to amend. The court reasoned that appellant's complaint was untimely because his causes

¹ The record on appeal does not contain appellant's complaint.

of action accrued in February 2009. In the alternative, the court concluded that, under the doctrine of res judicata, several small claims judgments in respondents' favor bar appellant's action, because those small claims actions involved the same controversy and causes of action. Subsequently, the trial court dismissed appellant's action with prejudice.

DISCUSSION

The trial court concluded appellant's action is untimely under Government Code section 945.6.² Section 945.6, subdivision (a) provides in relevant part: "Except as provided in Sections 946.4 and 946.6 and subject to subdivision (b), any suit brought against a public entity on a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division must be commenced: [¶] (1) If written notice is given in accordance with Section 913, not later than six months after the date such notice is personally delivered or deposited in the mail. [¶] (2) If written notice is not given in accordance with Section 913, within two years from the accrual of the cause of action. . . ." (See also *Roberts v. County of Los Angeles* (2009) 175 Cal.App.4th 474, 478-480; *Munoz v. State of California* (1995) 33 Cal.App.4th 1767, 1776.)

On appeal, respondents assert appellant filed an administrative claim with the City of East Palo Alto (City) arising out of the February 2009 arrest; City rejected the claim on September 15, 2009; and City notified appellant of rejection of the claim on September 17, 2009. Accordingly, City argues appellant had, under section 945.6, subdivision (a)(1), six months from September 2009 to file his complaint.

On appeal, appellant does not dispute any of City's factual assertions. Nor does he dispute that the causes of action in his complaint are the same as those involved in the administrative claim or that he received notice of rejection of the claim, triggering the section 945.6, subdivision (a)(1) six-month filing period. Instead, he makes several different arguments that are unsupported by persuasive citations to authority.

² All undesignated section references are to the Government Code.

Citing Code of Civil Procedure section 472, appellant argues he was entitled to amend his complaint. But he fails to cite authority that section provides him a right to amend where the trial court has sustained a demurrer without leave to amend, and he fails to identify an amendment that could have cured the statute of limitations problem identified by the court.

Appellant argues his cause of action did not accrue until he was “exonerated in the form of a final judicial disposition of the criminal case.” However, he fails to cite any authority supporting that proposition. One of the cases he cites, *Neel v. Magana, Olney, Levy, Cathcart & Gelfand* (1971) 6 Cal.3d 176, 187, states, “In ordinary tort and contract actions, the statute of limitations . . . begins to run upon the occurrence of the last element essential to the cause of action.” Appellant fails to explain why a final judicial disposition of the criminal case is an element essential to his cause of action based on an arrest lacking probable cause. In any event, appellant does not dispute respondents’ assertion that the district attorney determined not to bring charges in March 2009. If his claims accrued at that time, his complaint, filed in August 2011, is still untimely.

Appellant argues his action is timely under the four-year statute of limitations in Code of Civil Procedure section 343, which applies to “[a]n action for relief not hereinbefore provided for.” But he fails to cite any authority or reasoned argument why that section, rather than Government Code section 945.6, applies to the claims in this case. (See *Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784-785 (*Badie*).)

Finally, appellant contends the untimely filing of his complaint was due to “misleading, or erroneous information” provided to him by an “employee of the San Mateo County small claims advisory clinic.” However, appellant does not allege what or when false information was provided to him, and he fails to provide reasoned argument why or citations to authority that any false information provided by an employee of the small claims advisory clinic could provide him relief from the section 945.6 limitations period. (See *Badie, supra*, 67 Cal.App.4th at pp. 784-785.)

The trial court properly sustained respondents' demurrer without leave to amend because appellant's action is untimely. In light of that conclusion, we need not consider whether it was also proper to sustain the demurrer under the res judicata doctrine.

DISPOSITION

The trial court's order dismissing appellant's lawsuit is affirmed. Costs on appeal are awarded to respondents.

SIMONS, J.

We concur.

JONES, P.J.

NEEDHAM, J.