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ORIGINAL

THIS OPINION HAS BEEN RELEASED FOR PUBLICATION BY ORDER OF THE
COURT OF CIVIL APPEALS

IN THE COURT OF CIVIL APPEALS OF THE STATE OF ~~OKLAHOMA~~
COURT OF CIVIL APPEALS
STATE OF OKLAHOMA
DIVISION IV

LOIS WILLIAMS,

)

JAN 29 2026

Plaintiff/Appellant,

)

SELDEN JONES
CLERK

vs.

)

Case No. 122,699

JOSEPH MCFEETERS and THE
DAVEY TREE EXPERT COMPANY,

)

Rec'd (date)	1-29-26
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Pubish	X yes no

Defendants/Appellees.

)

APPEAL FROM THE DISTRICT COURT OF
GARFIELD COUNTY, OKLAHOMA

HONORABLE TOM NEWBY, DISTRICT JUDGE

REVERSED AND REMANDED

Justin Lamunyon
LAMUNYON LAW FIRM
Enid, Oklahoma

For Plaintiff/Appellant

Michael W. Brewer
HILTGEN & BREWER, P.C.
Oklahoma City, Oklahoma

For Defendants/Appellees

OPINION BY GREGORY C. BLACKWELL, PRESIDING JUDGE:

¶1 Lois Williams appeals the court's grant of the defendants' motion to dismiss. Upon review, we find that Williams timely filed her negligence claim

against the defendants, and the court thus erred in granting the motion to dismiss.¹

I.

¶2 On May 21, 2019, Williams and McFeeters were involved in a car accident. On July 19, 2021—two years and fifty-nine days later—Williams filed a petition against the defendants alleging that McFeeters was negligent and that she suffered personal injuries for which McFeeters and his employer were responsible.² On August 8, 2023, Williams voluntarily dismissed her case without prejudice. Within one year, Williams refiled the action pursuant to 12 O.S. § 100.

¶3 The defendants moved to dismiss, alleging that Williams's July 2021 petition was untimely and § 100, therefore, did not apply. Williams responded, insisting that her July 2021 petition was timely pursuant to a series of emergency administrative orders issued during the Covid-19 pandemic that resulted in a tolling of all deadlines, including those setting the statute of limitations, from March 16, 2020, through May 15, 2020. The trial court granted the defendants' motion to dismiss, presumably finding that the applicable emergency orders did not affect the statute of limitations in these circumstances. Williams appeals.

¹ This appeal was assigned to the authoring judge on January 9, 2026.

² Williams alleged that McFeeters was an employee of The Davey Tree Expert Company and was acting within the scope of his employment when the accident occurred.

II.

¶4 An order granted a motion to dismiss is reviewed *de novo*. *Wilson v. State ex rel. State Election Bd.*, 2012 OK 2, ¶ 4, 270 P.3d 155. When reviewing a motion to dismiss, this court examines only the controlling law, not the facts, and, thus, we must take as true all of the challenged pleading's allegations together with all reasonable inferences that may be drawn from them. *Id.*

III.

¶5 The sole question presented in this appeal is whether the plaintiff's July 2021 petition was timely filed. The statute of limitations for Williams's negligence claim was two years pursuant to 12 O.S. § 95(A)(3). The accident occurred on May 19, 2019. Under normal circumstances, Williams had through May 19, 2021, to file her initial petition. However, she did not file her first petition until July 19, 2021, two years and fifty-nine days after the date of the accident. Williams contends that the July 2021 petition is timely because of Supreme Court Administrative Directive ("SCAD") No. 2020-36 issued by the Oklahoma Supreme Court during the Covid-19 pandemic. She contends that this order "tolled all deadlines, including the statute of limitations, for 60 days from May 15, 2020."³ ROA, Tab 3, *Objection to Motion to Dismiss*, pg. 1. This extension, according to the plaintiff, made her first petition timely. Upon review of the applicable emergency orders and caselaw, we agree.

³ As noted later in this opinion, the tolling period actually consists of sixty-one days.

¶6 SCAD No. 2020-36 was the third order issued in a series of emergency orders issued by the Oklahoma Supreme Court and the Oklahoma Court of Criminal Appeals in response to the Covid-19 pandemic. The first two emergency orders suspended all deadlines and extended the statute of limitations for all civil cases through May 15, 2020. *First Emergency Joint Order Regarding the Covid-19 State of Disaster*, 2020 OK 25, 462 P.3d 704 (“In any civil case, the statute of limitations shall be extended for 30 days from the date of this order.”); *Second Emergency Joint Order Regarding the Covid-19 State of Disaster*, 2020 OK 24, 462 P.3d 262 (“In any civil case, the statute of limitations shall be extended through May 15, 2020.”).

¶7 On April 29, 2020, the Supreme Court entered a third emergency order, SCAD No. 2020-36, that continued the suspension of all civil and criminal deadlines and clarified the two prior orders. *Third Emergency Joint Order Regarding the Covid-19 State of Disaster*, 2020 OK 23, 462 P.3d 703. The relevant portion of the third emergency order reads as follows:

5. Paragraphs 4 and 5 of the Second Emergency Joint Order remain in effect to May 15, 2020. In all cases, the period from March 16, 2020 to May 15, 2020, during which all rules and procedures, and deadlines, whether prescribed by statute, rule or order in any civil, juvenile or criminal case were suspended, will be treated as a tolling period. May 16th shall be the first day counted in determining the remaining time to act. The entire time permitted by statute rule or procedure is not renewed.

6. Beginning on May 16, 2020, all rules and procedures, and all deadlines whether prescribed by statute, rule or order in any civil, juvenile or criminal case, shall be enforced, including all appellate rules and procedures for the Supreme Court, the Court of Criminal Appeals, and the Court of Civil Appeals.

Id.

¶8 In *McBee v. Shanahan Home Design, LLC*, 2021 OK 60, 499 P.3d 1, the Supreme Court addressed whether this order tolled the period for a plaintiff to complete service of process in her case, even though summons had not been issued prior to the Court's order. The plaintiff in *McBee* filed her petition on November 19, 2019. *Id.* ¶ 4. Pursuant to 12 O.S. § 2004(I), the plaintiff had 180 days from that date to complete service of process, which would have been May 17, 2020. From November 19, 2019, to March 15, 2020, the first day of the tolling period, 117 days had expired. *Id.* ¶ 19. The Court found because that SCAD Order No. 2020-36 tolled the summons deadline, the plaintiff had until July 18, 2020, to complete service on the defendants. *Id.* Because service had been completed prior to that date, the service was timely. *Id.*

¶9 In so holding, the Court found that “[u]nder the terms of the third SCAD order, all deadlines between March 16, 2020, and May 15, 2020, were treated as being tolled due to the emergency health crisis.” *Id.* ¶ 18. Additionally, the Court quoted its prior holding that “[t]olling’ is a term of art which refers to the temporary suspension of statutory time bar for bringing a suit because of either some ‘disability’ on the part of the plaintiff which prevents that person from commencing the action or some activity on the part of the defendant forestalling prosecution of the claim against the defendant.” *Id.* (quoting *Thompson v. Anchor Glass Container Corp.*, 2003 OK 39, ¶ 9 n.13, 73 P.3d 836, 838). Further, “[i]t is a well-settled rule of law that ‘whenever a person is prevented from exercising his legal remedy by some paramount authority, the time during which he is thus

prevented is not to be counted against him in determining whether the statute of limitations has barred his right.” *Id.* (quoting *McGee v. Kirby*, 1941 OK 326, ¶ 5, 118 P.2d 199, 200). The *McBee* Court noted that that rule in *McGee* typically applies to statutes of limitations but could also apply to the deadline for issuing summons because both require a party perform a particular action within a specific timeframe. *Id.*

¶10 Based on the Court’s analysis in *McBee*, we hold that the period of March 16, 2020, through May 15, 2020—a period of sixty-one days—cannot count against a party when calculating the applicable statute of limitations under Oklahoma law.⁴ As such, the order granting the defendants’ motion to dismiss is reversed, and this matter is remanded for additional proceedings.

¶11 **REVERSED AND REMANDED.**

BARNES, J., and HUBER, J., concur.

January 29, 2026

⁴ While no Oklahoma appellate case has held as such, federal cases applying Oklahoma law are in accord. See, e.g., *Horrell v. Cherokee Cnty. Governmental Bldg. Auth.*, No. CIV-21-96-JFH-GLJ, 2024 WL 4493883, at *3 (E.D. Okla. Apr. 2, 2024), report and recommendation adopted, No. 21-CV-96-JFH-GLJ, 2024 WL 4346715 (E.D. Okla. Sept. 30, 2024) (“Three Oklahoma Supreme Court Emergency Orders in 2020 tolled all deadlines, including statutes of limitations, for a total of 61 days. Giving Plaintiff the benefit of this tolling, here the statute of limitations is thus two years and 61 days.” (footnote omitted)).