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IN THE
COURT OF APPEALS OF INDIANA

CHARLES FORD,	)	
	)	
Appellant- Plaintiff,	)	
	)	
vs.	)	No. 46A04-1103-CT-115
	)	
INDIANA DEPARTMENT OF CORRECTION, et al.,	)	
	)	
Appellees- Defendants,	)	

APPEAL FROM THE LAPORTE CIRCUIT COURT
The Honorable Thomas Alevizos, Judge
Cause No. 46C01-1010-CT-438

October 12, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Chief Judge

Case Summary and Issue

Charles Ford appeals the trial court's dismissal of his tort complaint. Ford raises one issue for our review, which we restate as whether he failed to timely file his tort complaint. Concluding he did fail to timely file, we affirm the trial court's dismissal of his complaint.

Facts and Procedural History

On October 7, 2010, Ford filed a complaint in the LaPorte Circuit Court against the Indiana Department of Correction and various Department of Correction employees in their official capacity. In his complaint, Ford alleges the Department of Correction and the named employees acted negligently and breached their duty of care, causing Ford to be assaulted by fellow inmates on August 7, 2007. In his brief on appeal, Ford alleges he originally filed his complaint by mail on July 7, 2009, in the LaPorte Superior Court, and after being advised by a prison paralegal that he filed his tort claim in the wrong court, he filed for transfer of the tort complaint from the LaPorte Superior Court to the proper court, the LaPorte Circuit Court. In January of 2011, the defendant-appellees filed a motion to dismiss Ford's complaint as untimely, and the LaPorte Circuit Court granted the motion to dismiss. Ford now appeals.

Discussion and Decision

Indiana Code section 34-11-2-4 provides a two-year statute of limitations for personal injuries. Pursuant to this statute, the trial court dismissed Ford's complaint as untimely. Ford argues, based on Indiana Code section 34-11-8-1 ("the Journey Account Statute") and case law applying that statute, that because his alleged July 2009 filing was in the wrong court, his 2010 filing in the correct court should be considered a

continuation of his original action pursuant to the Journey Account Statute.[1] Thus, he argues, his complaint was timely because his initial action in the LaPorte Superior Court was within the two-year statute of limitations.

We do not reach the merits of Ford's argument because he fails to support his factual assertion that he filed a timely complaint in the LaPorte Superior Court either by citing to the record or by providing any evidence in his Appendix to Appellant [sic] Brief demonstrating the timely filing took place. In Galvan v. State, 877 N.E.2d 213, 215 (Ind. Ct. App. 2007), we addressed a similar situation. We dismissed the appellant's appeal because nearly every facet of the appellant's brief was lacking. Id. at 215-17. Indiana Appellate Rule 46(A) provides specific sections that an appellant's brief "shall" contain, as well as what each particular section "shall" include. In Galvan, the appellant's statement of facts and statement of the case were wholly inadequate and violated Appellate Rule 46(A) because they lacked citations to the record or appendix to support their assertions. Id. at 215. As was the case in Galvan, Ford's statement of the facts and statement of the case do not contain a single citation to the record or his appendix.

Further, Indiana Appellate Rule 49(A) states that an appellant "shall" file its appendix with its brief, and in providing the requirements of an appellant's appendix, Indiana Appellate Rule 50(A)(2)(f) provides that an appellant's appendix shall include copies of "pleadings and other documents from the Clerk's Record in chronological order that are necessary for resolution of the issues raised on appeal." Although Ford filed an appendix with his brief, his appendix did not include any documentation to enable us to

[1] Ford cites Keenan v. Butler, 869 N.E.2d 1284 (Ind. Ct. App. 2007), Basham v. Penick, 849 N.E.2d 706 (Ind. Ct. App. 2006), and McGill v. Ling, 801 N.E.2d 678 (Ind. Ct. App. 2004), trans. denied, to support his assertion that Indiana Code section 34-11-8-1 applies to his action.

resolve the only issue he raises on appeal. Nothing in his appendix even references his alleged 2009 filing. The chronological case summary included is from the LaPorte Circuit Court, and it begins with "prisoner files" complaint on October 7, 2010. Appendix to Appellant [sic] Brief at 2. Ford makes no other arguments regarding the timeliness of his action. Thus, we affirm the trial court's dismissal of Ford's complaint as untimely.

Conclusion

We affirm the trial court's dismissal of Ford's complaint as untimely because his brief and appendix are inadequate and violate Indiana Appellate Rules 46(A) and 50(A)(2)(f). He has failed to provide any evidence to support his assertion that the Journey Account Statute applies to his action.

Affirmed.

BARNES, J., and BRADFORD, J., concur.