

IN THE COURT OF APPEALS OF IOWA

No. 3-575 / 12-1179

Filed July 24, 2013

DANIEL LOPATKA,
Plaintiff-Appellant,

vs.

CITY OF IOWA CITY,
Defendant-Appellee.

Appeal from the Iowa District Court for Johnson County, Denver D. Dillard,
Judge.

Daniel Lopatka appeals the district court's dismissal of his personal injury
claim against the City of Iowa City. **AFFIRMED.**

Daniel R. Lopatka, Iowa City, appellant pro se.

Eric R. Goers, Assistant City Attorney, Iowa City, for appellee.

Considered by Doyle, P.J., and Danilson and Mullins, JJ.

MULLINS, J.

Daniel Lopatka appeals from the district court order dismissing his personal injury claim against the City of Iowa City. Lopatka contends the district court erred in finding his claim was time-barred because the applicable statute of limitations should run from the date a medical professional diagnosed his injury.

We are called upon to review when the applicable statute of limitations began to run under the circumstances presented in this case. Appellate review of a ruling on a motion to dismiss is for correction of errors at law. *Rieff v. Evans*, 630 N.W.2d 278, 284 (Iowa 2001). Pursuant to Iowa Code section 670.5 (2011), a plaintiff must bring a personal injury claim within two years of the alleged injury. On July 16, 2009, Lopatka fell from his bicycle. Following the accident, Lopatka was in pain and could not move his shoulder. On July 30, 2009, a chiropractor diagnosed Lopatka with a shoulder injury. On July 29, 2011, Lopatka filed his personal injury claim alleging Iowa City's poor design, oversight, and construction of a sidewalk caused his injury. Thus, if the statute of limitations runs from the date of the accident, his claim is time-barred; if the statute of limitations runs from the date of diagnosis, his claim is not time-barred.

Under the discovery rule, the applicable statute of limitations begins to run when the injured party has actual or imputed knowledge of the facts that would support a cause of action. See *Franzen v. Deere & Co.*, 337 N.W.2d 660, 662 (Iowa 1985). We find Lopatka had actual or imputed knowledge of the facts that would support a personal injury cause of action on July 16, 2009. Accordingly,

Loptaka's claim is time-barred. See Iowa Code § 670.5. We affirm without further opinion pursuant to Iowa Court Rule 21.26(1)(a) and (e).

AFFIRMED.