

IN THE COURT OF APPEALS OF IOWA

No. 8-562 / 07-1638
Filed August 13, 2008

JOHN L. HENSS,
Plaintiff-Appellant,

vs.

IOWA ACCOUNTANCY EXAMINING BOARD,
Defendant-Appellee.

Appeal from the Iowa District Court for Polk County, Douglas F. Staskal,
Judge.

Plaintiff appeals the dismissal of his tort action against the Iowa
Accountancy Examining Board based on the revocation of his certified public
accounting certificate. **AFFIRMED.**

John Henss, Clive, pro se.

Thomas J. Miller, Attorney General, and Pamela Griebel, Assistant
Attorney General, for appellee.

Considered by Huitink, P.J., and Vogel and Eisenhauer, JJ.

HUITINK, P.J.**I. Background Facts & Proceedings**

The license of John Henss to be a certified public accountant was revoked by the Iowa Accountancy Examining Board in 1994. On July 16, 2007, Henss filed a tort action against the Board based on alleged improprieties during the hearing process which led to the revocation of his license.

Prior to filing an answer, the Board filed a motion to dismiss pursuant to Iowa Rule of Civil Procedure 1.421(1). The Board claimed the action should be dismissed on the following grounds: (1) claim preclusion; (2) exclusivity of judicial review; (3) failure to state a claim upon which relief can be granted; (4) sovereign immunity; (5) quasi-judicial immunity; and (6) statute of limitations. Henss resisted the motion to dismiss.

The district court granted the motion to dismiss based on the grounds raised in the Board's motion. Henss appeals the dismissal of his tort claim.

II. Standard of Review

In considering the dismissal of a petition under Iowa Rule of Civil Procedure 1.421(1), we review for the correction of errors at law. *Mlynarik v. Bergantzel*, 675 N.W.2d 584, 585-86 (Iowa 2004). "An order granting a motion to dismiss will be upheld only if the petition, on its face, fails to state a cause of action upon which relief could be granted under any circumstances." *Raas v. State*, 729 N.W.2d 444, 446 (Iowa 2007). We construe the petition in the light most favorable to the plaintiff. *Id.*

III. Merits

We first note that if any ground asserted in a motion to dismiss is valid, we will affirm the order granting the motion to dismiss. *Fitzpatrick v. State*, 439 N.W.2d 663, 665 (Iowa 1989). We, therefore, will address only the issue of the statute of limitations.

A motion to dismiss may be granted based on the statute of limitations. *Clark v. Miller*, 503 N.W.2d 422, 424 (Iowa 1993). “[W]hen it is obvious from the uncontroverted facts shown on the face of the challenged petition that the claim for relief was barred when the action was commenced, the defense may properly be raised by a motion to dismiss.” *Rieff v. Evans*, 630 N.W.2d 278, 289 (Iowa 2001) (citation omitted).

The statute of limitations for tort claims is two years. Iowa Code § 614.1(2) (2007). Henss’s tort claims are based on the hearing which led to the revocation of his license. He claims he was denied procedural due process, his counsel conspired with another party, the hearing was fatally defective, and the Board engaged in selective enforcement. All of these claims are based on the revocation of Henss’s license to practice as a certified public accountant in 1994, which was thirteen years before he filed his present tort action.

We conclude it is obvious from the petition that Henss’s claims are barred by the statute of limitations. We determine the district court did not err in granting the Board’s motion to dismiss. We affirm the decision of the district court.

AFFIRMED.