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STATE OF MICHIGAN

COURT OF APPEALS

BONITA CAREY-POWERS and ALEXIS HOLMES,

Plaintiffs-Appellees,

v

WAYNE COUNTY COMMUNITY COLLEGE DISTRICT,

Defendant-Appellant,

and

DARRICK MUHAMMAD,

Defendant.

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No. 371960
Wayne Circuit Court
LC No. 22-008022-CD

Before: CAMERON, P.J., and MALDONADO and WALLACE, JJ.

MALDONADO, J.

Defendant Wayne County Community College District (WCCCD) appeals as of right the trial court's order denying its motion for summary disposition pursuant to MCR 2.116(C)(7) (governmental immunity) and (C)(10) (no genuine issue of material fact),[1] which sought to dismiss plaintiffs' claims of disparate treatment, hostile work environment, and retaliation in violation of the Elliott-Larsen Civil Rights Act, MCL 37.2101 *et seq*., because plaintiffs failed to timely comply with the notice requirements of the Court of Claims Act, MCL 600.640 *et seq*. We affirm.

[1] WCCCD filed a separate application for leave to appeal the trial court's order denying summary disposition arguing that plaintiffs failed to submit substantively admissible evidence to establish a genuine issue of material fact. This Court denied the application. *Carey-Powers v Wayne Co Community College Dist*, unpublished order of the Court of Appeals, entered December 17, 2024, (Docket No. 372065).

I. BACKGROUND

This case arises out of plaintiffs' claims against WCCCD and defendant Darrick Muhammad for disparate treatment on the basis of sex, creation of a hostile work environment, and retaliation for complaints made regarding Muhammad's alleged sexual harassment. Plaintiffs worked for WCCCD's police force, and Muhammad was the security director for WCCCD. WCCCD moved for summary disposition, arguing that plaintiffs failed to present any evidence that they had been treated differently on the basis of their sex. WCCCD also argued that summary disposition was warranted because plaintiffs failed to timely file a written claim or notice of intention to file a claim in the Court of Claims as required by MCL 600.6431(1). The trial court denied WCCCD's motion for summary disposition in its entirety. This appeal followed.

II. STANDARDS OF REVIEW

"We review de novo a trial court's decision on a motion for summary disposition." *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159; 934 NW2d 665 (2019). "MCR 2.116(C)(7) provides that a motion for summary disposition may be raised on the ground that a claim is barred because of immunity granted by law." *Dextrom v Wexford Co*, 287 Mich App 406, 428; 789 NW2d 211 (2010). "When reviewing a motion under MCR 2.116(C)(7), this Court must accept all well-pleaded factual allegations as true and construe them in favor of the plaintiff, unless other evidence contradicts them." *Id*.

We also review de novo questions of statutory interpretation and the applicability of governmental immunity. *Rowland v Washtenaw Co Rd Comm*, 477 Mich 197, 202; 731 NW2d 41 (2007); *Wood v Detroit*, 323 Mich App 416, 419; 917 NW2d 709 (2018). "When construing a statute, this Court's primary goal is to give effect to the intent of the Legislature." *Rowland*, 477 Mich at 202. We construe the language of the statute itself, and if the language is unambiguous, "we give the words their plain meaning and apply the statute as written." *Id*.

III. ANALYSIS

On appeal, WCCCD only argues that plaintiffs' claims should have been dismissed because they were time-barred by plaintiff's failure to comply with the notice requirements of § 6431(1) of the Court of Claims Act.[2] We disagree.

[2] WCCCD raises other issues within its brief and reply brief, such as the arguments that plaintiffs failed to raise a genuine issue of material fact and that plaintiffs' claims were barred by the standard limitation period. We decline to address these issues because they were not raised in the questions presented, *Bouverette v Westinghouse Electric Corp*, 245 Mich App 391, 404; 628 NW2d 86 (2001); were improperly raised for the first time in WCCCD's reply brief, *Bronson Methodist Hosp v Mich Assigned Claims Facility*, 298 Mich App 192, 199; 826 NW2d 197 (2012); and do not contain any citation to the record or caselaw, *Seifeddine v Jaber*, 327 Mich App 514, 521; 934 NW2d 64 (2019).

MCL 600.6431(1), a notice provision in the Court of Claims Act, provides as follows:

> Except as otherwise provided in this section, a claim may not be maintained against this state unless the claimant, within 1 year after the claim has accrued, files in the office of the clerk of the court of claims either a written claim or a written notice of intention to file a claim against this state or any of its departments, commissions, boards, institutions, arms, or agencies.

The definition of "this state or any of its departments or officers" is provided by MCL 600.6419(7):

> As used in this section, "the state or any of its departments or officers" means this state or any state governing, legislative, or judicial body, department, commission, board, institution, arm, or agency of the state, or an officer, employee, or volunteer of this state or any governing, legislative, or judicial body, department, commission, board, institution, arm, or agency of this state, acting, or who reasonably believes that he or she is acting, within the scope of his or her authority while engaged in or discharging a government function in the course of his or her duties.

The Michigan Supreme Court has held that the notice requirement of MCL 600.6431(1) "applies to all claims against the state, including those filed in the circuit court, except as otherwise exempted in MCL 600.6431 itself." *Christie v Wayne State Univ*, 511 Mich 39, 52; 993 NW2d 203 (2023).

WCCCD relies on *Christie* and argues that plaintiffs were required to adhere to MCL 600.6431(1). Specifically, WCCCD argues (1) that *Christie* applies retroactively to plaintiffs' claims and (2) that MCL 600.6431(1) is applicable because plaintiffs' claims were brought against the state.

In *Flamont v Dep't of Corrections*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 367863); slip op at 6, this Court held that *Christie* should have full retroactive effect because the holding did not constitute a new rule. This Court determined that our Supreme Court in *Christie* corrected a misinterpretation of MCL 600.6431 and interpreted the statute on the basis of its unambiguous language. *Id*. Accordingly, we agree with defendant that the holding in *Christie* was retroactive.[3]

In addition, WCCCD argues that Muhammad is a state officer. We also decline to address this issue because it was never raised in the trial court, so it has not been properly preserved for appellate review. *Glasker-Davis v Auvenshine*, 333 Mich App 222, 227; 964 NW2d 809 (2020).

[3] In *Landin v Dep't of Health & Human Servs*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 367356), slip op at 8-9, another panel of this Court held that *Christie* does not apply retroactively. However, this conflict was resolved by a special panel in *Hudson v Dep't of Corrections*, ___ Mich App ___; ___ NW3d___ (2025) (Docket No. 367902) (*Hudson II*), lv gtd ___ Mich ___ (2025) (Docket No. 169021). This Court determined that the panel in *Landin* was

Nonetheless, the trial court properly denied WCCCD's motion for summary disposition because WCCCD does not fall within the definition of "the state or any of its departments or officers"; therefore, plaintiffs' claims were not subject to the notice requirement of MCL 600.6431.

In *Doan v Kellogg Community College*, 80 Mich App 316, 321; 263 NW2d 357 (1977), this Court considered whether community colleges should be "likened to a state-supported university under the Court of Claims Act or to a political subdivision not within the jurisdiction of the Court of Claims . . . ." Reviewing the enabling statute creating community colleges, this Court explained:

> Community colleges are governed by MCLA 389.1, *et seq*.; MSA 15.615(101), *et seq*. Under this statute, a community college district is created by a local vote, not by the constitution nor by an act of the Legislature. From the statement of findings by the trial judge, it appears that the Kellogg Community College district is the same as the intermediate school district. Therefore, the decision to create the community college district was based on a vote of the people in the intermediate school district. MCLA 389.51; MSA 15.615(151). Additionally, the board of trustees of the community college are elected locally. MCLA 389.54; MSA 15.615(154). The tax rate for financing the school is also determined by a local vote. In fact, if the proposition to establish a maximum annual tax rate fails after being submitted three times, the community college district is dissolved. MCLA 389.55; MSA 15.615(155). Furthermore, the purpose of the community college is local, *i.e.*, to provide education to persons in the community. MCLA 389.105; MSA 15.615(1105). The community college serves primarily residents in its own district and an additional fee is charged if a nonresident is enrolled. Thus, the intent of the Legislature is that community colleges should be local in nature. [*Doan*, 80 Mich App at 320.]

Accordingly, this Court concluded that the jurisdiction of the Court of Claims did not extend to an action brought against a community college. *Id*. at 322. Therefore, the plaintiffs were not required to file a notice in the Court of Claims within one year of their claims' accrual before pursuing their claims in the circuit court. Notably, this Court has followed, cited, and quoted *Doan* in recent published cases. See e.g., *Taxpayers for Mich Constitutional Gov't v Michigan*, 345 Mich App 1, 13; 3 NW3d 821 (2022); *Mays v Snyder*, 323 Mich App 1, 47; 916 NW2d 227 (2018).

In the present case, WCCCD does not dispute that it is a community college. Instead, WCCCD argues that community colleges have been treated as governmental entities for immunity

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bound by the decision in *Flamont* to apply *Christie*. *Id*. at ___; slip op at 2. Notably, the issue whether *Christie* "applies retroactively to claims against the State of Michigan that were filed in circuit court without a timely notice being filed in the Court of Claims under MCL 600.6431" is a question currently before the Supreme Court. See *Hudson v Dep't of Corrections*, ___ Mich ___ (2025) (Docket No. 169021).

purposes; therefore, WCCCD is subject to the Court of Claims Act and plaintiffs were required to comply with the notice provision under MCL 600.6432(1). As *Doan* establishes, this is incorrect.

Although WCCCD may have governmental immunity from tort liability under MCL 691.1407, it is as a political subdivision, rather than as a state. Specifically, MCL 691.1407(1) provides that "a governmental agency is immune from tort liability if the governmental agency is engaged in the exercise or discharge of a governmental function." The statute further defines a governmental agency as a state or political subdivision. MCL 691.1401(a). A political subdivision under MCL 691.1401(e) is defined as follows:

> a municipal corporation, county, county road commission, school district, community college district, port district, metropolitan district, or transportation authority or a combination of 2 or more of these when acting jointly; a district or authority authorized by law or formed by 1 or more political subdivisions; or an agency, department, court, board, or council or a political subdivision.

As WCCCD is a community college, it clearly falls within the definition of political subdivision. Further, although political subdivisions and state are both governmental agencies for the purposes of the governmental immunity from tort liability under MCL 681.1407(1), for purposes of governmental immunity, "governmental agency and state are not synonymous, nor are they interchangeable." *Pohutski v Allen Park*, 465 Mich 675, 684; 641 NW2d 219 (2002). Therefore, WCCCD may have governmental immunity from tort liability as a governmental agency but as a political subdivision—not a state.

In other words, WCCCD may be considered a governmental agency under MCL 681.1407(1), but that does not make it the state. As discussed, it is well-established that claims against community colleges do not fall within the exclusive jurisdiction of the Court of Claims Act because community colleges are "local in nature" and fall within the statutory definition of "the state or any of its departments or officers." *Doan*, 80 Mich App at 320. See also *Taxpayers*, 345 Mich App at 13; *Mays*, 323 Mich App at 47. Accordingly, contrary to defendant's argument, plaintiffs are not subject to the notice requirements of the Court of Claims Act; therefore, the trial court properly denied WCCCD's motion for summary disposition.

Affirmed.

/s/ Allie Greenleaf Maldonado
/s/ Thomas C. Cameron
/s/ Randy J. Wallace