STATE OF MICHIGAN

COURT OF CLAIMS

VINCENT BURGESS,

Plaintiff,

v

Case No. 26-000112-MM

MICHIGAN STATE POLICE,

Hon. Sima G. Patel

Defendant.
_____ /

OPINION AND ORDER DENYING DEFENDANT'S MOTION FOR SUMMARY DISPOSITION

Plaintiff filed suit on May 27, 2026, alleging that officers within the Michigan State Police (MSP) engaged in misconduct, failed to investigate murder and theft complaints, lied to plaintiff, and expressed bias in favor of its officers and against plaintiff. Plaintiff raised two counts: (1) seeking a writ of mandamus to compel the MSP to follow its internal regulations and misconduct investigation procedures, and (2) "gross negligence & equal protection" based on the "intentional falsification of reports, active bias, and arbitrary withdrawal of emergency telephonic reporting access" that "caused severe economic, administrative, and emotional harm."

Defendant seeks summary disposition, contending that the six-month notice period of MCL 600.6431(4) of the Court of Claims Act (COCA) applies in this case and that plaintiff filed suit after the expiration of the notice period. The Court agrees that plaintiff failed to file notice of his claim within the COCA notice period but concludes that the notice period was tolled due to

plaintiff's disability. Accordingly, the Court DENIES defendant's motion for summary disposition.

I. PLAINTIFF FAILED TO FILE SUIT WITHIN SIX MONTHS OR ONE YEAR OF THE CLAIMS' ACCRUAL

MCL 600.6431(1) provides that to maintain a suit against the state, a state actor, or a state agency, a plaintiff generally must file with the Clerk of the Court of Claims "either a written claim or a written notice of intention to file a claim" within one year of the claim's accrual. MCL 600.6431(4) provides for a shortened notice period of six months "[f]or a claim against this state for property damages or personal injuries." The Court concludes that plaintiff's first count arguably seeks a declaratory judgment of defendant's duties and a writ of mandamus to compel defendant's actions rather than raising a claim for personal injuries. The Court will apply the one-year notice period to that claim. However, in Count 2 plaintiff clearly alleges personal injuries, requiring notice to be filed within six months of the claim's accrual. Plaintiff did not meet either of these deadlines.

The Court of Appeals recently interpreted MCL 600.6431(4) and explained when the six-month notice period applies in *Short v Mich State Police*, ___ Mich App ___; ___ NW3d ___ (2026) (Docket No. 375823). "The COCA does not define the term 'personal injuries' " as used in subsection (4). *Id.*, slip op at 4. In the context of a "claim for . . . personal injuries," the phrase "personal injuries" has "acquired a peculiar and appropriate meaning in Michigan law, generally referring to a cause of action sounding in tort" and is "a legal term of art." *Id.* Referring to *Black's Law Dictionary* (12th ed), p 974, the Court of Appeals noted that "personal injury" is defined for legal purposes in three ways: (1) a bodily injury, (2) an "invasion of a personal right, including mental suffering and false imprisonment," also known as a "private injury," and (3) in the workers'

compensation realm as any harm arising in the scope of employment. *Short*, ___ Mich App at ___, slip op at 4-5. *Short* continued:

> Within the definition of "injury," "bodily injury" is defined as "Physical damage to a person's body. Also termed *personal injury*; *personal bodily injury*; *physical injury*. See *serious bodily injury*; *personal injury*." [*Black's Law Dictionary* (12th ed).] Similarly, Merriam-Webster's online legal dictionary defines "personal injury" as "an injury to one's body, mind, or emotions. *broadly*: an injury that is not to one's property." Merriam-Webster.com Dictionary, *personal injury* <https://www.merriamwebster.com/legal/personal%20injury> (accessed July 2, 2026). [*Short*, ___ Mich App at ___, slip op at 5.]

As in *Short*, plaintiff in this case did not allege a bodily injury and his claims do not arise from the workers' compensation realm. Accordingly, the Court must determine whether plaintiff has alleged an "invasion of a personal right, including mental suffering and false imprisonment." *Short* explained at length that this type of personal injury does not require a plaintiff to plead physical injury or physical harm. *Id*. at 5-10. Rather, "what constitutes injuries to person includes invasions of rights that inhere in man as a rational being." *Id*. at 10 (cleaned up).

In Count 2, plaintiff alleges that by falsifying reports, exhibiting active bias, and arbitrarily withdrawing access from plaintiff to make emergency reports by telephone, defendant was grossly negligent and caused plaintiff severe economic, administrative, and emotional harm. This clearly fits within *Short*'s definition of a claim for personal injuries and the six-month notice period applies. In Count 1, plaintiff seeks an explanation of defendant's duties under the laws, regulations, and internal rules applying to its internal investigations and a writ of mandamus compelling defendant to comply with those standards. This claim is arguably different in nature from plaintiff's second count and the Court will apply the one-year notice period to that claim.

To avoid dismissal, Count 1 must have accrued on or after May 27, 2025, and Count 2 must have accrued on or after November 27, 2025. Plaintiff's complaint alleges wrongdoing

between July 15, 2022 and April 7, 2025. Accordingly, plaintiff failed to provide timely notice within either six months or one year of the claims' accrual. This generally would require dismissal. *Elia Cos, LLC v Univ of Mich Bd of Regents*, 511 Mich 66, 74-75; 993 NW2d 392 (2023).

II. INSANITY TOLLS THE COCA NOTICE PERIOD

Plaintiff contends, however, that the statutory notice period was tolled due to his disability. MCL 600.5851 tolls the statute of limitations for claims that accrue during a plaintiff's minority or insanity, in relevant part, as follows:

> (1) . . . [I]f the person first entitled to make an entry or bring an action under this act is under 18 years of age or insane at the time the claim accrues, the person or those claiming under the person shall have 1 year after the disability is removed through death or otherwise, to make the entry or bring the action although the period of limitations has run. . . .
>
> (2) The term insane as employed in this chapter means a condition of mental derangement such as to prevent the sufferer from comprehending rights he or she is otherwise bound to know and is not dependent on whether or not the person has been judicially declared to be insane.
>
> (3) To be considered a disability, the infancy or insanity must exist at the time the claim accrues. If the disability comes into existence after the claim has accrued, a court shall not recognize the disability under this section for the purpose of modifying the period of limitations.

In recent years, the Michigan Supreme Court and Court of Appeals have expanded the grounds for tolling the notice period of the COCA. In *St Juliana v State Police*, ___ Mich App ___; ___ NW3d ___ (2025) (Docket No. 370427); slip op at 7, the Court of Appeals considered whether the wrongful death savings provision of MCL 600.5852, which has generally been interpreted as suspending the statute of limitations to allow time for a personal representative of a decedent's estate to be appointed, tolled the COCA notice period as well. The Court of Appeals in *St Juliana* noted that it made a "direct comparison between the" COCA notice period and

statutes of limitations in *Rusha v Dep't of Corrections*, 307 Mich App 300, 310-311; 859 NW2d 735 (2014), "acknowledg[ing] the technical distinction between statutory notice requirements and statutory limitations periods yet emphasiz[ing] their analogous roles in limiting a plaintiff's remedy without impinging on the substantive right." *St Juliana*, ___ Mich App at ___, p 7. "Statutory notice periods function as a mechanism that effectively truncate the time frames delineated in statutes of limitations." *Id*. at 8, citing *Rusha*, 307 Mich App at 312. The Court of Appeals held: "If the provisions in MCL 600.5852 did not influence the notice requirements detailed in MCL 600.6431, it would undermine the wrongful-death saving provision's intended purpose: to preserve actions that survive death so that the representative of the estate may have a reasonable time to pursue such actions." *St Juliana*, ___ Mich App at ___, p 8 (cleaned up). The defendant has filed an application for leave to appeal to the Michigan Supreme Court in *St Juliana v Mich State Police*, Docket No. 168975, but the Supreme Court has yet to consider that application.

The appellate courts have also extended the fraudulent concealment exception of MCL 600.5855 to toll the COCA notice period in *McCormick v Mich State Univ*, unpublished opinion of the Court of Appeals, issued January 10, 2025 (Docket No. 367598), lv den MSC Docket No. 168334 (2026), and *Janssen-Rogers v Dep't of Environment, Great Lakes, & Energy*, unpublished opinion of the Court of Appeals, issued January 29, 2026 (Docket No. 369025), lv den MSC Docket No. 169784 (2026). These cases relied on *Mays v Snyder*, 323 Mich App 1; 916 NW2d 227 (2018), which relied upon the fraudulent concealment exception to toll the COCA notice period for claims arising from the Flint water crisis. The Michigan Supreme Court, however, could not agree whether MCL 600.5855 applied under the circumstances, although the lead decision

allowed the trial court action to continue on the ground that there was a question of fact regarding when the claims accrued due to fraudulent concealment. *Mays*, 506 Mich 157.

There are only two Court of Appeals unpublished opinions analyzing whether the tolling provision of MCL 600.5851 applies to the notice provisions of the COCA. Both determined that it does not. See *Taylor v Univ of Mich Bd of Regents*, unpublished opinion of the Court of Appeals, issued August 18, 2024 (Docket No. 356354); *Super v Dep't of Transp*, unpublished opinion of the Court of Appeals, issued July 14, 2009 (Docket No. 282636). These unpublished opinions predate the Court of Appeals' decisions regarding the application of MCL 600.5852 and MCL 600.5855 in *St. Juliana*, *McCormick*, and *Janssen-Rogers* to toll the COCA notice period. Accordingly, the Court does not find these opinions to be of assistance.

MCL 600.5851(1) provides a grace period of "1 year after the disability is removed through death or otherwise, to make the entry or bring the action although the period of limitations has run." MCL 600.5855 states that if the liable party fraudulently conceals a claim, "the action may be commenced at any time within 2 years after the person who is entitled to bring the action discovers, or should have discovered, the existence of the claim . . . although the action would otherwise be barred by the period of limitations." MCL 600.5852(1) provides that if the injured party dies before the statute of limitations has expired or within 30 days thereafter, the personal representative of the estate may commence an action "at any time within 2 years after letters of authority are issued although the period of limitations has run." The language of all three statutes focuses solely on the running of a statute of limitations. Even so, the appellate courts have applied

MCL 600.5852 and MCL 600.5855 to toll the COCA notice period as well.[1] The Court finds no reason this analysis would not apply equally to the similar language of MCL 600.5851. Therefore, a plaintiff's disability by reason of insanity tolls the COCA notice period.

III. PLAINTIFF ESTABLISHED HIS INSANITY

This does not end the Court's analysis, however. Plaintiff must establish that he meets the statutory definition of insanity for the tolling to apply. MCL 600.5851(2) defines "insane" as "a condition of mental derangement such as to prevent the sufferer from comprehending rights he or she is otherwise bound to know and is not dependent on whether or not the person has been judicially declared to be insane." The burden to establish that the notice period was tolled due to insanity falls on plaintiff.

> In general, the burden of proof rests on a defendant to establish all the facts necessary to show that the period of limitation has expired. However, where it appears that the cause of action is prima facie barred, the burden of proof is upon the party seeking to enforce the cause of action to show facts taking the case out of the operation of the statute of limitations. [*Warren Consol Schs v US Gypsum Co*, 205 Mich App 580, 583; 518 NW2d 508 (1994) (cleaned up).]

Furthermore, the insanity must have existed at the time the claim accrued to toll the statute of limitations, or the notice period. MCL 600.5851(3).

In support of his claim of insanity, plaintiff provided a 2016 Team Mental Health Evaluation and Management report noting plaintiff's report of feeling "hopeless" and "that others

[1] The Michigan Supreme Court also recently extended the tolling provision of MCL 600.5852 to the wrongful-death savings provision of MCL 600.5852, overturning *Waltz v Wyse*, 469 Mich 642; 677 NW2d 813 (2004), and giving personal representatives even more time to file a medical malpractice action following a decedent's passing. *Ernst v Brown*, ___ Mich ___; ___ NW3d ___ (2026) (Docket No. 168462).

are out to harm him." The report continued that plaintiff had been diagnosed with schizoaffective disorder, experienced fear and paranoia when others are behind him, and heard voices at times.

Plaintiff also provided progress notes from an October 2019 psychiatric review during his admission to the Center for Forensic Pathology (CFP). The provider described plaintiff as "suspicious" and "refus[ing] to answer basic questions." She further described that plaintiff "did not know where he was," and otherwise refused to answer questions regarding the date, his name, and date of birth. Overall, the provider noted that plaintiff was "capable of understanding court proceedings" although he had "illogical and rigid beliefs about how his case [would] be dismissed by the prosecutor." Plaintiff felt "mistreated and harassed by whomever is appointed to work with him when they will not collude with his irrational strategies and paranoid beliefs." This prevented plaintiff from working rationally with his attorney. The CFP provider found plaintiff incompetent to stand trial in 2019, and as late as August 2021.

Finally, plaintiff provided a January 2026 Michigan Department of Health and Human Services Medical Needs Certification completed by his mental health provider, indicating that plaintiff had been diagnosed with psychotic and delusional disorders and was seen twice monthly in the provider's office. Those conditions would persist for plaintiff's lifetime and left him unable to perform in any employment. The physician noted that plaintiff "struggles [with] reality" and "has tendency toward agitation, anxiety." Other statements in the form are illegible. The physician further stated that plaintiff had suffered from these conditions for more than 20 years.

Plaintiff has adequately supported that he was insane as defined in MCL 600.5851(3) at the time his claims accrued. Plaintiff's struggles with reality, delusions, and psychotic tendencies would prevent him "from comprehending rights he . . . is otherwise bound to know" as required

by the statute. Accordingly, defendant is not entitled to summary disposition based on the COCA notice period.

IT IS ORDERED:

1. The Court DENIES defendant's motion for summary disposition under MCR 2.116(C)(7).

2. Defendant is DIRECTED to file an answer to plaintiff's complaint within 21 days of the entry of this order.

Date: August 4, 2026

Sima G. Patel
Judge, Court of Claims