

stated in this rule. A summary judgment shall not be rendered unless it appears from the evidence or stipulation, and only from the evidence or stipulation, that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being entitled to have the evidence or stipulation construed most strongly in the party's favor. ***

See, also, *Williams v. First United Church of Christ* (1974), 37 Ohio St.2d 150; *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317.

Plaintiff alleges that defendant is liable for defamation for pursuing a common pleas court action against him arising from alleged non-payment of state income taxes. Defendant denies liability and argues that plaintiff has failed to comply with the applicable statute of limitations, R.C. 2305.11.

Defendant filed its action against plaintiff in the Summit County Court of Common Pleas on December 3, 1996. Plaintiff asserts that he satisfied his tax liability prior to December 3, 1996. On September 10, 1998, the Summit County Court of Common Pleas issued a release and satisfaction of judgment. However, following the issuance of the release, plaintiff received, on October 2, 1998, a notice of adverse credit action based upon the lawsuit. Plaintiff stated that "when I received these notices I realized that the defendant's false lawsuit had become a libel against me."

R.C. 2743.16(A) states:

(A) Subject to division (B) of this section, civil actions against the state permitted by sections 2743.01 to 2743.20 of the Revised

Code shall be commenced no later than two years after the date of accrual of the cause of action or within any shorter period that is applicable to similar suits between private parties.

[Cite as *Fleming v. Ohio Attorney Gen.*, 2002-Ohio-426.]

R.C. 2305.11(A) states in pertinent part:

An action for libel, slander, malicious prosecution, or false imprisonment, an action for malpractice other than an action upon a medical, dental, optometric, or chiropractic claim, or an action upon a statute for a penalty or forfeiture shall be commenced within one year after the cause of action accrued ***

Plaintiff's cause of action accrued at the latest on October 2, 1998, the date upon which he became aware that adverse action was taken against him as a result of defendant's alleged libelous conduct. Plaintiff filed his complaint in this matter on September 10, 2001, which is more than the one-year period allowed under the R.C. 2305.11 statute of limitations.

Assuming *arguendo* that plaintiff's cause of action is one sounding in negligence, plaintiff additionally failed to meet the two-year statute of limitations specified in R.C. 2743.16.

The court concludes that there are no genuine issues of material fact and that reasonable minds could come to but one conclusion which is that plaintiff's claim is barred by the applicable statute of limitations and that defendant is entitled to judgment as a matter of law.

JUDGE

