

COURT OF APPEALS OF OHIO, TENTH APPELLATE DISTRICT

Rascon v. Ohio Dept. of Commerce

2026-Ohio-276 · No. 25AP-504 · Decided January 29, 2026

SUMMARY

The Tenth District Court of Appeals affirmed dismissal of Amador Esdreel Estrada Rascon’s claims against the Ohio Department of Commerce under Civ.R. 12(B)(6) because the complaint showed that the claims were filed after the applicable two-year statute of limitations. The court held that Rascon failed to plead facts supporting application of the discovery rule or equitable tolling.

CASE DETAILS

COURT	Court of Appeals of Ohio, Tenth Appellate District
WRITING FOR THE COURT	Edelstein, J.; DorrIan, J.; Leland, J.
JURISDICTION	Ohio Court of Appeals, Tenth Appellate District
DECIDED	January 29, 2026
DOCKET	25AP-504
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed the Court of Claims of Ohio's dismissal of his complaint under Civ.R. 12(B)(6) on statute-of-limitations grounds.
STANDARD OF REVIEW	De novo review of a Civ.R. 12(B)(6) dismissal; review is limited to the allegations in the complaint and written instruments attached to it.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Amador Esdreel Estrada Rascon v. Ohio Department of Commerce

TOPICS

- statute of limitations
- motions to dismiss
- standard of review
- conversion
- civil procedure

PRACTICE AREAS

- civil procedure
- appellate procedure
- statute of limitations
- torts
- administrative law

QUESTIONS PRESENTED

1. Whether the Court of Claims properly dismissed the complaint under Civ.R. 12(B)(6) because the statute-of-limitations defense was apparent from the face of the complaint.
2. Whether the discovery rule rendered Rascon's conversion claim timely.
3. Whether equitable tolling rendered Rascon's claims timely despite his failure to file within two years after learning of the alleged wrongful disbursement.

HOLDINGS

1. A statute-of-limitations defense may support dismissal under Civ.R. 12(B)(6) when it is apparent from the face of the complaint, including when the complaint establishes the applicable limitations period and contains no facts supporting tolling or another exception. Because Rascon's complaint showed that he learned of the alleged wrongful disbursement on November 24, 2021, but did not sue until March 10, 2025, dismissal was proper.
2. The discovery rule did not make Rascon's conversion claim timely because, at the latest, he discovered the alleged injury on November 24, 2021, when he learned that the department had paid the funds to another person. He failed to plead facts demonstrating that the discovery rule should extend beyond that date.
3. Equitable tolling did not apply because Rascon did not plead facts showing that he diligently pursued his rights and that an extraordinary circumstance prevented timely filing.

KEY QUOTATIONS

“A motion to dismiss for failure to state a claim upon which relief can be granted under Civ.R. 12(B)(6) is a procedural test of a civil complaint’s sufficiency.” (¶ 6)

“A litigant seeking equitable tolling must demonstrate he diligently pursued his rights, but some extraordinary circumstance stood in his way and prevented timely action.” (¶ 22)

FACTUAL BACKGROUND

Rascon alleged that he was the heir of Jorge Carlos Quijada Medina, who left three bank accounts containing \$171,167.51 that were later transferred to the Ohio Department of Commerce's Division of Unclaimed Funds. Rascon contacted the department in February 2021 and learned on November 24, 2021, that the funds had been paid to a third party on August 11, 2021. He filed suit on March 10, 2025, alleging negligence, breach of fiduciary duty, and conversion.

PROCEDURAL HISTORY

Rascon filed a complaint on March 10, 2025, alleging negligence, breach of fiduciary duty, and conversion against the Ohio Department of Commerce concerning unclaimed funds allegedly paid to a third party. The Court of Claims granted the department's Civ.R. 12(B)(6) motion on May 23, 2025, concluding the claims were barred by the applicable two-year statute of limitations. The Tenth District affirmed after overruling both assignments of error.

DISPOSITION

affirmed

CASES CITED

- Cool v. Frenchko, 2022-Ohio-3747, ¶ 13 (10th Dist.)
- Morrow v. Reminger & Reminger Co. LPA, 2009-Ohio-2665, ¶ 7 (10th Dist.)
- Bullard v. McDonald's, 2021-Ohio-1505, ¶ 11 (10th Dist.)
- State ex rel. Scott v. Cleveland, 2006-Ohio-6573, ¶ 26
- State ex rel. Ohio Civ. Serv. Emps. Assn. v. State, 2016-Ohio-478, ¶ 12
- Perrysburg Twp. v. Rossford, 2004-Ohio-4362, ¶ 5
- Schmitz v. NCAA, 2018-Ohio-4391, ¶¶ 10-11
- Loveland Edn. Assn. v. Loveland City School Dist. Bd. of Edn., 58 Ohio St.2d 31, 32 (1979)
- Gore v. Mohamod, 2022-Ohio-2227, ¶¶ 14, 16 (10th Dist.)
- Singleton v. Adjutant Gen. of Ohio, 2003-Ohio-1838, ¶¶ 18-19 (10th Dist.)
- Stafford v. Columbus Bonding Ctr., 2008-Ohio-3948, ¶ 23 (10th Dist.)
- Strother v. Columbus, 2022-Ohio-4097, ¶¶ 17-18, 23 (10th Dist.)
- Wells v. C.J. Mahan Constr. Co., 2006-Ohio-1831, ¶ 25
- Cyrus v. Henes, 89 Ohio App.3d 172, 175 (9th Dist. 1993)
- Hunter v. Shenango Furnace Co., 38 Ohio St.3d 235, 237 (1988)
- Collins v. Sotka, 81 Ohio St.3d 506, 507 (1998)
- Peterson v. Teodosio, 34 Ohio St.2d 161, 174 (1973)
- Vogel v. Huron Cty. Commrs., 1993 Ohio App. LEXIS 2889, *5 (6th Dist. June 11, 1993)
- Weidman v. Hildebrandt, 2024-Ohio-2931, ¶ 14
- Norgard v. Brush Wellman, Inc., 2002-Ohio-2007, ¶ 8
- Cain v. Panitch, 2018-Ohio-1595, ¶ 43 (10th Dist.)
- O'Stricker v. Jim Walter Corp., 4 Ohio St.3d 84, 87 (1983)
- Browning v. Burt, 66 Ohio St.3d 544, 559 (1993)
- Oliver v. Kaiser Community Health Found., 5 Ohio St.3d 111, 114 (1983)
- McBroom v. Gertmenian, 2018-Ohio-3884, ¶ 12 (10th Dist.)
- State ex rel. Fuqua v. Alexander, 79 Ohio St.3d 206, 207 (1997)
- Cline v. Mtge. Electronic Registration Sys., Inc., 2013-Ohio-5706, ¶ 9 (10th Dist.)
- Brisk v. Draf Industries, Inc., 2012-Ohio-1311, ¶ 10 (10th Dist.)
- Park v. Acierno, 2005-Ohio-1332, ¶ 29 (7th Dist.)
- Stevens v. Ohio Dept. of Mental Health, 2013-Ohio-3014, ¶ 19 (10th Dist.)
- Moore v. Dept. of Rehab. & Corr., 2011-Ohio-1607, ¶ 21 (10th Dist.)
- Coleman v. Columbus State Community College, 2015-Ohio-4685, ¶ 16 (10th Dist.)
- Sharp v. Ohio Civ. Rights Comm., 2005-Ohio-1119, ¶¶ 10-11 (7th Dist.)

- In re Regency Village Certificate of Need Application, 2011-Ohio-5059, ¶ 37 (10th Dist.)
- Holland v. Florida, 560 U.S. 631, 647-651 (2010)
- Byers v. Robinson, 2008-Ohio-4833, ¶ 52 (10th Dist.)
- Ignash v. First Serv. Fed. Credit Union, 2002-Ohio-4395, ¶ 12 (10th Dist.)
- Engler v. Adjutant Gen. of Ohio, 2018-Ohio-2273, ¶ 9 (10th Dist.)
- Cardinal Health 108, LLC v. Columbia Asthma & Allergy Clinic, LLC, 2022-Ohio-2018, ¶ 17 (10th Dist.)
- Cyrus v. Henes, 89 Ohio App.3d 172, 175 (9th Dist. 1993), rev'd on other grounds, 70 Ohio St.3d 640 (1994)

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