

had recently purchased at an auction. As he traveled on Interstate 287, two New York State Troopers pulled him over, explaining that his vehicle's exhaust pipe was emitting fumes. During the stop, the State Troopers issued claimant a ticket for the offense and conducted a consent search of his person. One of the troopers searched his car without his consent. Nothing remarkable was discovered and, after detaining claimant for an hour and twenty minutes, the State Troopers permitted him to drive away.

Shortly thereafter, the same officers stopped claimant a second time for driving with an obstructed windshield. They detained him for another hour during which a State Police sergeant arrived at the scene. According to claimant, he was handcuffed and made to open the car trunk for inspection. A search of its contents revealed only lawful items, which were allegedly thrown onto the road before being returned to the trunk. No ticket was issued and claimant was eventually allowed to leave.

On June 22, 1999, claimant served a timely notice of intention to file a claim for damages against the State. Detailing the incident, the notice set forth causes of action for unreasonable search and seizure, assault and battery, false imprisonment, denial of equal protection, and intentional and negligent injury to property. The claim was not served upon the Attorney General's office until March 18, 2002, and was filed

with the Court of Claims on March 19, 2002. It sought damages exclusively for federal and state constitutional violations (see Brown v State of New York, 89 NY2d 172, 183 [1996] [concluding that "claims against the State based upon violations of the State Constitution come within the jurisdiction of the Court of Claims"]; see also Martinez v City of Schenectady, 97 NY2d 78 [2001]). Specifically, the claim alleged that the search and seizure of claimant's person and vehicle violated the Fourth Amendment of the United States Constitution and article 1, § 12 of the New York State Constitution. Claimant further alleged that the State Troopers' conduct was racially motivated and violated the Equal Protection clauses of the Federal and State Constitutions (see US Const 14th Amend § 1; NY Const, art I, § 11).

The State moved to dismiss the claim on the ground that the court lacked subject matter jurisdiction because claimant failed to file his claim within the jurisdictional time limitations of Court of Claims Act § 10. In opposition, claimant essentially argued that section 10 governs only the filing deadlines for traditional common-law torts, not constitutional torts. He urged the court to determine the timeliness of his claim based on the statute of limitations period set forth in CPLR 213 (1), proposing a six-year limitations period for state constitutional claims and a three-year limitations period for federal constitutional claims.

The Court of Claims granted the State's motion and dismissed the claim. The Appellate Division affirmed, holding that state constitutional tort claims cannot be maintained where alternative common-law tort remedies exist for the alleged wrongs. It further held that the Court of Claims properly dismissed the federal constitutional claims for lack of subject matter jurisdiction. The court explicitly declined to address "the issue of the applicable statute of limitations" (2 AD3d 694, 696 [2003]). Claimant appeals to this Court as a matter of right, and we now affirm the order of the Appellate Division on different grounds.

The dispositive issue here is whether, under the terms of the waiver of sovereign immunity found in Court of Claims Act § 8, the State retained its immunity as to this claim because claimant failed to comply with the time limitations set forth in Court of Claims Act § 10. We conclude that the State retained its immunity and therefore that the claim was properly dismissed.

Preliminarily, a distinction must be drawn between statutes of limitation generally and the filing limitations of the Court of Claims Act. It is well settled that statutes of limitation are designed to promote justice by preventing the revival of stale claims (see Blanco v American Tel. & Tel. Co., 90 NY2d 757, 773 [1997] [citation omitted]). The primary purpose of a limitations period, we have noted, is to ensure fairness to a defendant (see Flanagan v Mount Eden Gen. Hosp., 24 NY2d 427,

429 [1969]). The time limitations in the Court of Claims Act, however, are distinctly concerned with the subject matter jurisdiction of the Court of Claims as the state has waived its sovereign immunity against suit only to the extent that claimants comply with the provisions of the statute (see Alston v State, 97 NY2d 159, 163 [2001]).

Section 8 of the Court of Claims Act provides:

"The state hereby waives its immunity from liability and action and hereby assumes liability and consents to have the same determined in accordance with the same rules of law as applied to actions in the supreme court against individuals or corporations, provided the claimant complies with the limitations of this article"

(emphasis added). "Article II, section 10 of the Court of Claims Act could not be any clearer . . . that 'no judgment shall be granted in favor of any claimant unless such claimant shall have complied' with the time limitations established in that section" (Alston, 97 NY2d at 163, quoting Court of Claims Act § 10 [emphasis in original]).

Where the notice of intention to file a claim has been timely filed, Court of Claims Act § 10 (3) provides:

"[a] claim to recover damages for injuries to property or for personal injuries caused by the negligence or unintentional tort of an officer or employee of the state while acting as such officer or employee . . . shall be filed and served upon the attorney general within two years after the accrual of such claim."

In contrast, also assuming a timely served notice of intention, a

claim to recover for damages arising from an intentional tort of an officer or employee of the state, "shall be filed and served upon the attorney general within one year after the accrual of such claim" (Court of Claims Act § 10 [3-b]).

Here, it is undisputed that claimant's cause of action for federal and state constitutional torts accrued on March 27, 1999, and that he timely served his notice of intention to file a claim. Claimant, however, did not file and serve his claim until March 2002 -- almost three years after the action accrued. Because claimant's late filing and service places him beyond the two-year outer limits of section 10, and claimant did not seek late filing relief under Court of Claims Act § 10 (8) (a), the State was entitled to dismissal of this claim on sovereign immunity grounds. We need not determine whether the constitutional torts at issue should be categorized as negligent, unintentional or intentional torts for purposes of the court's jurisdiction over this matter. As the claim is untimely under either Court of Claims Act § 10 (3) or (3-b), it was properly dismissed.

In light of our conclusion, the merits of claimant's constitutional tort claims are not properly before us. Thus, we do not address the issue of whether a constitutional tort action may be maintained where alternative common-law tort remedies exist.

Accordingly, the order of the Appellate Division should

be affirmed, with costs.

* * * * *

Order affirmed, with costs. Opinion by Judge Ciparick. Chief Judge Kaye and Judges Smith, Rosenblatt, Graffeo, Read and Smith concur.

Decided November 30, 2004