

Employment Law

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United States Supreme Court Issues Ruling on Tolling of State Law Employment Discrimination Claims After Federal Claims Dismissed

Many times, federal district courts will dismiss a federal employment discrimination claim and decline to exercise supplemental jurisdiction over the plaintiff's state law claims. The state law claims are typically included with the federal claims pursuant to 28 U.S.C. § 1367(a), which allows pendent state law claims if they are "part of the same case or controversy" as the federal claims. If the federal claims are dismissed, the district court may dismiss all related state claims if there is no independent federal jurisdiction for those claims. *See* 28 U.S.C. § 1367(c)(3). In that situation, section 1367(d) provides that the "period of limitations for" refiling in state court a state claim so dismissed "shall be tolled while the claim is pending [in federal court] and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period." 28 U.S.C. § 1367(d).

In *Artis v. District of Columbia*, the United States Supreme Court resolved a split in state supreme courts as to whether the word "tolled" as used in section 1367(d) means the statute of limitations period is suspended during the pendency of the federal suit (the stop-the-clock reading); or that, although the state limitations period continues to run, a plaintiff has a grace period of 30 days to refile in state court after dismissal of the federal case (the grace period reading). *Artis v. District of Columbia*, 138 S. Ct. 594, 598 (2018). In a 5-4 decision, the Court held that section 1367(d)'s "instruction to 'toll' a state limitations period means to hold it in abeyance, *i.e.*, to stop the clock." *Artis*, 138 S. Ct. at 598.

Plaintiff Stephanie Artis was employed as a health inspector for the District of Columbia and in November 2010, was told she would lose her job. *Id.* at 599. Thirteen months later, Artis filed an employment discrimination claim against the District of Columbia in the United States District Court for the District of Columbia bringing claims under Title VII of the Civil Rights Act of 1964 as well as three pendent state law claims under District of Columbia law claiming a violation of the District of Columbia Whistleblower Act, False Claims Act, and a common law claim for wrongful termination against public policy. *Id.* On June 27, 2014, the district court granted the District of Columbia's motion for summary judgment on the Title VII claim over two years after Artis filed suit. *Id.*

Pursuant to section 1367(c)(3), the district court declined to exercise supplemental jurisdiction over Artis' remaining state law claims. *Id.* Fifty-nine days later, Artis refiled her state law claims in the District of Columbia Superior Court which granted the District of Columbia's motion to dismiss, holding that Artis' claims were time-barred because they were filed 29 days too late. *Id.* at 600. The District of Columbia Court of Appeals affirmed the dismissal. *Id.*

At the time that Artis filed her original lawsuit in federal court, close to two years remained on the applicable three year statute of limitations. *Id.* Because two and a half years passed before the federal court relinquished jurisdiction, Artis would have only 30 days to refile unless section 1367(d) paused the limitations clock. *Id.*

The Supreme Court initially examined the two competing interpretations of section 1367(d). Citing Black's Law Dictionary, the term "tolled" "means that the limitations period is suspended (stops running) while the claim is *sub judice*

elsewhere, then starts running again when the tolling period ends, picking up where it left off.” *Id.* at 601 (citing Black’s Law Dictionary 1488 (6th ed. 1990)). This is the general rule applied in federal courts.

Under the second interpretation, instead of suspending or “tolling” the limitations period, there is a grace period by which to refile the case. *Artis*, 138 S. Ct. at 602. This means that “the statute of limitations continues to run while the claim is pending in another forum. But the risk of a time bar is averted by according the plaintiff a fixed period in which to refile.” *Id.* Many states have enacted such grace period provisions. *Id.* The majority determined that there are no federal statutes that ascribe the grace period approach to the word “tolled” or that define the term as anything other than “suspended” or “paused.” *Id.* at 602-603.

The Court then considered the District of Columbia’s argument that the stop-the-clock interpretation of section 1367(d) raises the constitutional question of whether “the statute exceeds Congress’ authority under the Necessary and Proper Clause, Art. I, § 8, cl. 18, because its connection to Congress’ enumerated powers is too attenuated or too great an incursion on the States’ domain.” *Id.* at 606. Rejecting this argument, the Court relied on prior precedent finding that section 1367(d) is a proper exercise of Congress’ power and “conducive to the due administration of justice in federal court.” *Id.* (quoting *Jinks v. Richland Cty.*, S.C., 538 U.S. 456, 462 (2003)).

Ultimately, the majority reasoned that in situations when section 1367(d) applies, the stop-the-clock rule is suited to the primary purposes of limitations statutes. *Artis*, 138 S. Ct. at 606. In such cases, “the defendant will have notice of the plaintiff’s claims within the state-prescribed limitations period. Likewise, the plaintiff will not have slept on her rights. She will have timely asserted those rights, endeavoring to pursue them in one litigation.” *Id.*

Practical Application

What does this case mean to practitioners? If you have a case with both federal and state claims and the district court dismisses the federal claims but does not maintain jurisdiction over the remaining state claims, an attorney must calculate the appropriate deadline for the plaintiff to refile the lawsuit in state court. As an example, if a claim had a two-year statute of limitations and the federal lawsuit with a pendent state claim was filed at the end of year one, the plaintiff would have one additional year plus another 30 days to refile the lawsuit in state court, irrespective of how long the case was pending in federal court. Most likely, this ruling will apply to any case that was still pending as of the date of the Supreme Court’s decision, including those cases in which the notice of appeal deadline has not yet passed.

About the Author

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