

12/3/19 Arredondo v. Employment Development Dept. CA2/5

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

GRISELDA ARREDONDO,

Petitioner and Appellant,

v.

EMPLOYMENT DEVELOPMENT
DEPARTMENT et al.,

Respondents.

B290237

(Los Angeles County
Super. Ct. No. BS169191)

APPEAL from an order of the Superior Court of Los Angeles County, Mary H. Strobel, Judge. Affirmed.

Griselda Arredondo, in pro. per., for Petitioner and Appellant.

Xavier Becerra, Attorney General, Cheryl Feiner, Acting Senior Assistant Attorney General, Jennifer S. Kim, Supervising Deputy Attorney General, and Benjamin G. Diehl, Deputy Attorney General, for Respondent Employment Development Department.

No appearance for Respondent Department of Social Services.

Appellant Griselda Arredondo (Arredondo) wanted to sue the state Employment Development Department (the Department) for failing to review a June 2014 application for state disability insurance she believed she completed and submitted. But she did not meet the administrative claims presentation deadline established by the Government Code—which is a prerequisite for filing a civil action. So she filed a petition in court to relieve her from complying with the claims presentation requirement. We consider (on the record presented, which does not include a reporter’s transcript of the pertinent hearing below) whether the trial court abused its discretion in denying Arredondo the relief she sought.

I. BACKGROUND

Arredondo claims she sustained a “physical injury” and had an anxiety attack while at work in October 2013. In June 2014, she began filling out an online application for state disability insurance. In the weeks thereafter, Arredondo asserts she did not receive any communication from the Department and she made an in-person visit to a state disability insurance office in September 2014. Arredondo claims she at some point switched to a paper application for disability insurance.

According to a declaration in the record authored by a Department employee, Arredondo registered on the online system and created a user account, but never actually completed an application for state disability insurance. The employee was also unable to find any record of a paper disability insurance application filed by Arredondo.

Over two years after she began work on the online disability insurance application, i.e., on July 26, 2016, Arredondo

filed an administrative claim with the Government Claims Program of the Department of General Services. On her claim form, she identified the pertinent “Date of Incident” as June 16, 2014, and she claimed she suffered damages in excess of \$25,000 from, among other things, a “state disability insurance claim [that] was never approved or reviewed.”

Government Claims Program personnel sent Arredondo a letter in late September 2016 informing her that, under the Government Code, the program has no jurisdiction to consider claims presented more than one year after accrual of a cause of action. The following month, Arredondo wrote to Government Claims Program administrators and requested “late filing” of the claim she presented in July 2016. She explained that “after several attempts to complete and submit necessary documentation for approval, online file continued to upload continuously without any direction or notification on how to proceed with filing.”

The Government Claims Program denied Arredondo’s request to file a late claim. The denial letter advised Arredondo that her “recourse, should [she] wish to pursue the matter further, is to file a petition in court for relief from the requirements of [the] Government Code”

That is what Arredondo did. In April 2017, she filed a petition in Los Angeles Superior Court seeking relief from the requirements of Government Code section 945.4, which bars a suit for money or damages against a public entity on a cause of action for which a claim must first be administratively presented in accordance with other provisions of the Government Code. The petition, as later amended, sought relief only in connection with Arredondo’s “cause of action for personal injury and lack of

work due to administrative online processing on behalf of State of California Disability Insurance, Department of Social Service” Arredondo conceded her administrative claim was not filed within the six-month period described in Government Code section 911.2,¹ but she asserted she had been “mentally and physically incapacitated” during that time.²

The Department opposed Arredondo’s petition to file a late claim, principally arguing the court could not grant relief because Arredondo’s request to file a late claim came more than one year after her cause(s) of action accrued and Government Code section 946.6³ does not permit excusal from claim presentation

¹ The statute provides, in relevant part: “A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided in Article 2 (commencing with Section 915) not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented as provided in Article 2 (commencing with Section 915) not later than one year after the accrual of the cause of action.” (Gov. Code, § 911.2, subd. (a).)

² Arredondo referred the court to an accompanying declaration for further detail, but she did not include a declaration in her submission to the court.

³ The statute provides, in relevant part: “The court shall relieve the petitioner from the requirements of Section 945.4 if the court finds that the application . . . was made within a reasonable time not to exceed that specified in subdivision (b) of Section 911.4 [i.e., “a reasonable time not to exceed one year after the accrual of the cause of action”]” (Gov. Code, § 946.6, subd. (c).)

requirements when more than a year has elapsed from accrual. The trial court held a hearing on Arredondo's petition to file a late administrative claim, but no transcript of the hearing is included in the appellate record.

The trial court did, however, issue a minute order denying Arredondo's request for relief. The minute order explains the dates Arredondo provided to the Government Claims Program in connection with her assertion of a "state disability Insurance online claim negated to be reviewed or approved" ran from June 16, 2014, through June 30, 2015. Citing established law that an application to submit a late claim must come within a year of the date a claimant's cause of action accrues, the trial court found Arredondo's cause(s) of action accrued more than one year before she filed her late government claim and she had not "met the requirements for relief from the claim filing requirements as set forth in [Government] Code [section] 946.6."

II. DISCUSSION

No extended analysis is necessary in this appeal. Even putting aside Arredondo's failure to affirmatively show error by an adequate record, which alone warrants affirmance (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564; *Southern California Gas Co. v. Flannery* (2016) 5 Cal.App.5th 476, 483 ["In many cases involving the . . . abuse of discretion standard of review . . . a reporter's transcript or an agreed or settled statement of the proceedings will be indispens[a]ble"]; *J.J. v. City of San Diego* (2014) 223 Cal.App.4th 1214, 1220-1221 [denial of a Government Code section 946.6 petition for relief is reviewed for abuse of discretion] (*J.J.*)), the record we have shows the trial court's ruling was correct. Arredondo waited too long to seek judicial

relief from the statutes that bar suit where a plaintiff has not timely presented a claim.

In the administrative claim Arredondo submitted in July 2016, she identified June 16, 2014, as the date of the “incident” in question. The trial court found, after noting it was “somewhat difficult to discern when [Arredondo’s] claim accrued,” that Arredondo’s correspondence to the Government Claims Program established her claim concerning the alleged failure to review her state disability insurance application used a date range from June 16, 2014, through June 30, 2015. Even giving Arredondo the benefit of the doubt and using the latest date in this range as the operative claim accrual date, the claim she directed to the Government Claims Program was not presented until July 26, 2016, and she did not seek administrative approval to file a late claim until October of that same year. In either case, that was more than a year after any cause of action would have accrued. The trial court therefore had no power, by any measure, to grant Arredondo relief from the claim presentation prerequisite for bringing suit. (Gov. Code, §§ 911.2, subd. (a), 911.4, subd. (c), 946.6, subd. (c); *Munoz v. State of California* (1995) 33 Cal.App.4th 1767, 1779 [“When the underlying application to file a late claim is filed more than one year after the accrual of the cause of action, the court is without jurisdiction to grant relief under Government Code section 946.6”]; see also *J.J., supra*, 223 Cal.App.4th at p. 1222.)

DISPOSITION

The trial court's order is affirmed. Respondents shall recover their costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

BAKER, Acting P. J.

We concur:

MOOR, J.

KIM, J.