

Court Holds That Tolling Statute “Stopped The Clock” On State Law Claims, Instead Of Providing A “Grace Period”

24 Jan 2018

James N. Markels

In *Artis v. District of Columbia*, Artis filed a suit against D.C. in federal court with a federal discrimination claim and some state claims. Two and a half years later, the district court dismissed the federal claim, and with it dismissed the state claims for lack of jurisdiction. Under 28 USC sec. 1367(d), the “period of limitations” for re-filing the state claims in state court “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.” Artis filed his state claims 59 days after the dismissal, and the D.C. Court of Appeals held that his claims were now untimely under the statute. This created a split among the state supreme courts as to how to interpret Section 1367(d). The court, in a 5-4 opinion by Justice Sotomayor, reversed, holding that the word “tolled” here meant that the statute “stopped the clock” on the limitations period, and that clock picked up where it left off once the dismissal order was entered. Therefore, the entire time the claims spent before the district court did not count for the limitations period, and Artis’ re-filed claims were timely. Justice Gorsuch, joined by Justices Thomas, Kennedy, and Alito, dissented, arguing that Section 1367(d) was properly interpreted as providing a “grace period” instead, and that the majority’s decision “represents no small intrusion on traditional state functions and no small departure from our foundational principles of federalism.” A link to the opinion is [here](#).

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TAGGED: tolling statute, Artis v. District of Columbia, 25 USC sec. 1367(d)