

United States Court of Appeals  
For the Eighth Circuit

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No. 24-1257

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Bereket Kahsai, an individual

*Plaintiff - Appellant*

v.

Louis DeJoy, Postmaster General, U.S. Postal Service

*Defendant - Appellee*

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Appeal from United States District Court  
for the District of Minnesota

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Submitted: August 9, 2024

Filed: August 14, 2024

[Unpublished]

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Before KELLY, STRAS, and KOBES, Circuit Judges.

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PER CURIAM.

Bereket Kahsai appeals the district court's<sup>1</sup> adverse grant of summary judgment in his employment discrimination against the Postmaster General of the United States Postal Service. Upon careful review, we affirm.

We agree with the district court that Kahsai's suit was untimely, as there was no genuine dispute that he received the Notice of Final Action (NOFA) by June 17, 2019, and he did not file the instant suit until May 1, 2020, which is beyond the 90-day deadline. See Hallgren v. United States DOE, 331 F.3d 588, 589 (8th Cir. 2003) (grant of summary judgment is reviewed de novo; whether suit is time-barred is question of law, which may be resolved by summary judgment provided there are no genuine issues of material fact in dispute; failure to file suit within 90 days of receiving NOFA renders action untimely).

We conclude that Kahsai's prior lawsuit, which was dismissed without prejudice for failure to prosecute, did not toll the filing deadline, see Garfield v. J.C. Nichols Real Estate, 57 F.3d 662, 666 (8th Cir. 1995) ("A dismissal without prejudice does not toll a statute of limitation."); the continuing violation doctrine is inapplicable, see Scott v. St. Paul Postal Service, 720 F.2d 524, 525 (8th Cir. 1983) (claim of continuing discrimination does not in any way affect complainant's obligation to file action in district court within filing deadline); and Kahsai did not demonstrate that he was otherwise entitled to equitable tolling or estoppel, see English v. United States, 840 F.3d 957, 958 (8th Cir. 2016) (party seeking equitable tolling must establish that some extraordinary circumstance prevented timely filing).

Accordingly, we affirm the judgment of the district court. We also deny Kahsai's request on appeal to unseal records.

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<sup>1</sup>The Honorable John R. Tunheim, United States District Judge for the District of Minnesota.