

date of reversal or failure has expired, the plaintiff, or, if he dies and the cause of action survives, his representatives may commence a new action within one year after such date. ***

{¶7} Plaintiff was terminated from his employment with OSU on November 1, 1999. Subsequently, plaintiff timely commenced an action in the United States District Court for the Southern District of Ohio. In his federal action plaintiff alleged causes of action against Jill Morelli and Howard Geisler, as individual state employees, arising under the provisions of Sections 1983 and 1985, Title 42, U.S. Code. Plaintiff maintains that the federal action and this action have “substantially the same claims and parties” and, therefore, the savings statute tolled the two year statute of limitations applicable to causes of action brought in the Court of Claims.

{¶8} In *Children’s Hosp. v. Dept. of Public Welfare* (1982), 69 Ohio St.2d 523, 525, the Ohio Supreme Court held that, in order for the savings statute to apply, the original suit and the new action must be substantially the same, noting that, “[t]he actions are not substantially the same, however, when the parties in the original action and those in the new action are different.”

{¶9} This court finds that the parties in the federal action and those in the case *sub judice* are not substantially the same, and that, therefore, the savings provisions of R.C. 2305.19 did not toll the statute of limitations herein. Plaintiff’s federal action named individual defendants Morelli and Geisler, whereas the instant case names the State of Ohio Architect’s Office as party defendant. Accordingly, plaintiff failed to timely commence this action pursuant to R.C. 2743.16.

{¶10} For the foregoing reasons, defendant’s motion is GRANTED and plaintiff’s case is hereby DISMISSED. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

FRED J. SHOEMAKER
Judge

Case No. 2002-01977

-3-

ENTRY

Entry cc:

Emily J. Lewis
270 Bradenton Avenue
Dublin, Ohio 43017

Attorney for Plaintiff

Matthew J. Lampke
65 East State St., 16th Fl.
Columbus, Ohio 43215

Assistant Attorney General

KWP/laj
Filed 4-11-2002
Jr. Vol. 701, Pgs. 78-80
To S.C. reporter 4-15-2002