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This opinion shall not "constitute precedent or be binding upon any court."  
Although it is posted on the internet, this opinion is binding only on the  
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-3117-15T4

ORAINED BROWN,

Plaintiff-Appellant,

v.

FLORHAM PARK POLICE  
DEPARTMENT and FAIRLEIGH  
DICKINSON UNIVERSITY (MADISON),

Defendants-Respondents.

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Submitted May 16, 2017 – Decided July 13, 2017

Before Judges Suter and Grall.

On appeal from the Superior Court of New  
Jersey, Law Division, Morris County, Docket  
No. L-2642-15.

Oraine Brown, appellant pro se.

Johnson & Johnson, attorneys for respondent  
Florham Park Police Department (William G.  
Johnson, of counsel and on the brief).

Walsh Pizzi O'Reilly Falanga, LLP, attorneys  
for respondent Fairleigh Dickinson  
University (Peter J. Pizzi and Sydney J.  
Darling, of counsel and on the brief).

PER CURIAM

On November 4, 2015, plaintiff Oraine Brown filed a complaint alleging that Fairleigh Dickinson University (University) and the Florham Park Police Department (Department) violated his constitutional rights and "broke many laws." The complaint includes allegations but did not assert any specific cause of action. He alleged the University had surveillance cameras that recorded activity on the campus and gave the recording to the Department in connection with an investigation of an alleged robbery, despite the fact that the Department had not obtained a warrant. He alleged that the Department fabricated and altered evidence, coerced the victim, lied and intimidated witnesses.

Both defendants filed motions to dismiss for failure to state a claim pursuant to Rule 4:6-2(e). Plaintiff did not file a brief in opposition, but he appeared on the return date and was heard.

Following argument, which included but was not limited to argument on defendants' claims that plaintiff filed the complaint beyond the statute of limitations, the judge dismissed plaintiff's claims on grounds other than the limitations period. The judge dismissed claims against the University on the ground that it was not acting under the color of law as required by the New Jersey Civil Rights Act, N.J.S.A. 10:6-2, and by 42 U.S.C. §

1983. The judge dismissed plaintiff's claims against the Department for failure to file a notice of claim as required by N.J.S.A. 59:8-1 to -11.

On this appeal defendant contends that the judge "abused her discretion by dismissing [his] suit based on the [statute] of limitations without first having a discovery rule hearing." In his reply brief, plaintiff acknowledges his claim accrued on January 14, 2014,<sup>1</sup> and his failure to apply for leave file a late notice of claim. He asserts that his delay "was due to the fact that [he] was fighting two criminal charges one in Morris and the other in Union [C]ounty."<sup>2</sup>

We affirm the order of dismissal. Plaintiff's arguments regarding the statute of limitations are immaterial, because the judge did not dismiss his complaint on that ground. Plaintiff's explanation for failure to file a notice of claim within ninety

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<sup>1</sup> An order entered on January 14, 2014 in a prosecution under Morris County Indictment No. 13-09-1139, grants plaintiff leave to represent himself in that proceeding. During oral argument on the motion in the trial court, and in his reply brief on this appeal, plaintiff asserts that entry of the January 14, 2014 order gave him access to the information about defendants' wrongs.

<sup>2</sup> Plaintiff does not argue the notice of claim provision is inapplicable to any claim he would assert against the Department. See Fuchilla v. Layman, 109 N.J. 319, 331 (1988) (holding the notice provisions do not apply to claims asserted under § 1983).

days of January 14, 2014, has insufficient merit to warrant discussion beyond a citation to N.J.S.A. 59:8-9, which requires a filing within one year of accrual and a showing of "extraordinary circumstances." Moreover, this court generally declines to consider arguments not raised in the trial court or arguments raised for the first time on appeal in a reply brief. See, e.g., In re Bell Atlantic-New Jersey, Inc., 342 N.J. Super. 439, 442-43 (App. Div. 2001). Having reviewed the record and materials submitted on appeal, we discern no reason to deviate from our general practice in this case.

Affirmed.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.

  
CLERK OF THE APPELLATE DIVISION