

FILED

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BOBBY D. WILLIAMS,

Plaintiff-Appellant,

v.

BOBBIE J. STITT; et al.,

Defendants-Appellees.

No. 14-16929

D.C. No. 3:14-cv-00760-WHA

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
William Alsup, District Judge, Presiding

Submitted October 17, 2016**
San Francisco, California

Before: HAWKINS, CALLAHAN, and HURWITZ, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Bobby D. Williams (“Williams”) appeals the dismissal for failure to state a claim of his action to contest the Revocable Trust set up by his father Gomez Williams (“Gomez’s Trust”). We affirm.

The district court correctly applied the 120-day statute of limitations in California Probate Code section 16061.8 to this action. Williams received written notice of the administration of Gomez’s Trust on February 23, 2010, yet did not bring his action until February 19, 2014, almost four years later. *See generally Bridgeman v. Allen*, 161 Cal. Rptr. 3d 657, 659-62 (Cal. Ct. App. 2013) (affirming dismissal of a petition to contest trust amendments filed 133 days late).

Williams’s argument that section 16061.8 applies only to contests where the trust contains a no contest clause fails because the plain language of the provision provides no such exception. *See Straley v. Gamble*, 158 Cal. Rptr. 3d 484, 486-87 (Cal. Ct. App. 2013).

Nor did the district court abuse its discretion in denying Williams leave to file a third amended complaint. The terms of Gomez’s Trust permitted the addition of new property and, contrary to Williams’s argument, California Probate Code section 15200(b) has no application to this case. Thus allowing a further amendment would have been futile.

AFFIRMED.