ENTRY ORDER

SUPREME COURT DOCKET NO. 2009-178

JANUARY TERM, 2010

Lynden Thurber	}	APPEALED FROM:
v.	}	Washington Superior Court
Washington Electric Cooperative and Town of Plainfield	}	DOCKET NO. 8-1-09 Wncv
		Trial Judge: Helen M. Toor

In the above-entitled cause, the Clerk will enter:

Plaintiff Lynden Thurber appeals pro se from a superior court order dismissing his complaint against defendants Washington Electric Cooperative (WEC) and the Town of Plainfield. We affirm.

The record discloses that, in early January 2009, plaintiff filed a pro se complaint against defendants. The complaint alleged that "[s]ometime in 2002" defendant WEC improperly removed a power line running near his property. WEC, joined by the Town, moved to dismiss the complaint as untimely under the three-year statute of limitations for personal injury actions set forth in 12 V.S.A. § 512. Following a hearing in April 2009, the court issued a written decision granting the motion. Noting that the complaint admittedly arose from events occurring "sometime in 2002," the court ruled that the claim had plainly expired, whether measured by the three-year statute of limitations period of § 512 or the six-year limitations period generally applicable to civil actions under 12 V.S.A. § 511. Accordingly, the court dismissed the complaint with prejudice. This appeal followed.

Plaintiff's short letter brief reasserts his belief that defendants "had no right to remove" the power line in question, but fails to address the court's conclusion that the complaint on its face is time-barred. In considering a motion to dismiss, "the [c]ourt's attention is directed toward determining whether the bare allegations of the complaint constitute a statement of a claim under V.R.C.P. 8(a)." Bethel v. Mount Anthony Union High Sch. Dist., 173 Vt. 633, 634 (2002) (mem.) (quotation omitted). "Since averments of time and place are material for testing the sufficiency of a complaint, defenses based on a failure to comply with the applicable statute of limitations are properly raised in a motion to dismiss." Id. Inasmuch as the court's ruling here that the complaint was untimely appears to be well supported in the record, and plaintiff has not otherwise challenged the ruling or adduced any arguments or authority to undermine the court's conclusion, we discern no basis to disturb the judgment. See V.R.A.P. 28(a) (appellant's brief must set forth specific claims of error with appropriate citations to relevant facts,

authorities, and parts of the record); In re S.B.L., 150 Vt. 294, 297 (1988) ("We will not comb the record searching for error.").

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

John A. Dooley, Associate Justice

Marilyn S. Skoglund, Associate Justice