

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

GREGORY L. WALLACE,

Plaintiff,

vs.

SIOUX-ASSINNIBOINE
CORRECTIONS and ROOSEVELT
COUNTY DETENTION CENTER,

Defendants.

CV-15-30-GF-BMM

ORDER

Plaintiff Gregory L. Wallace (Wallace) is a prisoner in the Montana State Prison in Deer Lodge, Montana. Wallace filed a Complaint *pro se* on March 30, 2015, purporting to assert claims under 42 U.S.C. § 1983. The Complaint failed to state a claim upon which relief could be granted. (*See* Doc. 4). Wallace was given an opportunity to file an amended complaint. *Id.* Wallace filed an Amended Complaint on June 24, 2015. (Doc. 6).

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on October 8, 2015. (Doc. 7). Judge Johnston recommended that the Amended Complaint be dismissed because the claims asserted were time-barred. (Doc. 7 at 1-2). Wallace did not file objections to Judge Johnston's Findings and Recommendations.

The Court has reviewed Judge Johnston's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court finds no error in Judge Johnston's Findings and Recommendations, and adopts them in full.

The Amended Complaint alleges § 1983 claims based upon incidents that occurred in June and July 2010. (Doc. 6 at 9). The statute of limitations applicable to claims filed under 42 U.S.C. § 1983 is the state statute of limitations governing personal injury claims. *Wilson v. Garcia*, 471 U.S. 261 (1985). In Montana, the statute of limitations for personal injury claims is three years. Mont. Code Ann. § 27-2-204(1). Wallace's § 1983 claims, which are based upon incidents that occurred more than three years prior to the filing of his original Complaint, are time-barred.

Accordingly, IT IS ORDERED:

1. Plaintiff's Amended Complaint (Doc. 6) is DISMISSED with prejudice.
2. The filing of this action counts as one strike for failure to file within the applicable statute of limitations. 28 U.S.C. § 1915(g).
3. Any appeal of this decision would not be taken in good faith as Plaintiff's claims are time-barred.

4. The Clerk is directed to enter judgment accordingly.

DATED this 13th day of November, 2015.

A handwritten signature in blue ink that reads "Brian Morris". The signature is written in a cursive style with a large initial "B" and a long horizontal stroke at the end.

Brian Morris
United States District Court Judge