

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHWESTERN DIVISION**

DEMARCUS MONTREL KEY,)
)
Plaintiff)
)
v.)
)
OFFICER JEFF REDCROSS,)
et al.,)
)
Defendants)

Case No. 3:15-cv-00979-WMA-HGD

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on December 4, 2015, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed under 28 U.S.C. § 1915A(b) for failing to state a claim upon which relief may be granted. (Doc. 10). The plaintiff filed objections to the report and recommendation. (Doc. 11). Having considered said objections, the court finds as follows.

The plaintiff objects to the application of the statute of limitations to his claims. Statutes of limitations create “a time limit for suing in a civil case.” *CTS Corp. v. Waldburger*, – U.S.–, 134 S.Ct. 2175, 182 (2014). Application of the statute of limitations is not a discretionary matter for the court. No basis appears in the

plaintiff's complaint or amended complaint which would permit the court to toll the statute. Because the court must apply the statute of limitations, and because the statute acts a complete bar to the continuation of this action, the plaintiff's objection is **OVERRULED**.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the court is of the opinion that the magistrate judge's report is due to be and is hereby is **ADOPTED** and the recommendation is **ACCEPTED**. Accordingly, the plaintiff's complaint is due to be dismissed pursuant to 28 U.S.C. § 1915A(b) for failing to state a claim upon which relief may be granted. A Final Judgment will be entered.

DATED this 8th day of February, 2016.



WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE