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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DEMOND MIMMS,  
Plaintiff,  
v.  
GAIL LEWIS, WARDEN, et al.,  
Defendants.

Case No. CV 12-10769 DMG(JC)  
ORDER ACCEPTING FINDINGS,  
CONCLUSIONS, AND  
RECOMMENDATIONS OF UNITED  
STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Original Complaint, the First Amended Complaint, the currently operative Second Amended Complaint, the Order of the United States Magistrate Judge screening and dismissing claims and defendants in the Original Complaint with leave to amend (“Dismissal Order”), all documents filed in connection with the Motion to Dismiss filed by Defendants (“Motion to Dismiss”) (including the Request for Judicial Notice) and the Motion for Summary Judgment filed by Plaintiff (“Summary Judgment Motion”), and all of the records herein, including the attached Report and Recommendation of United States Magistrate Judge (“Report and Recommendation”) and Plaintiff’s Objections to the Report and Recommendation (“Objections”). The Court has further made *a de novo*

1 determination of those portions of the Report and Recommendation to which  
2 objection is made.

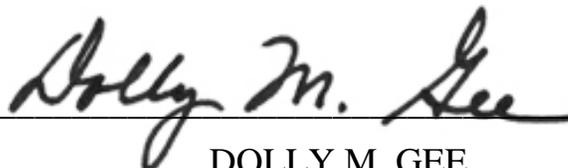
3 As explained in the Report and Recommendation, the statute of limitations  
4 for Plaintiff's claims accrued no later than February 11, 1999 and, even allowing  
5 for two years of statutory tolling based upon plaintiff's imprisonment/service of a  
6 criminal sentence, expired by February 11, 2002. In his Objections, Plaintiff  
7 argues that he is entitled to equitable tolling based upon events in 2004, 2006, and  
8 2009. (Objections at 2). The statute of limitations had already expired by that  
9 point, however, and such post-expiration events could not toll the limitations  
10 period. Cf. Ferguson v. Palmateer, 321 F.3d 820, 823 (9th Cir.) (state habeas  
11 petition filed after statute of limitations ended cannot toll the limitation period),  
12 cert. denied, 540 U.S. 924 (2003). Accordingly, the Court concurs with and  
13 accepts the findings, conclusions, and recommendations of the United States  
14 Magistrate Judge (including the Dismissal Order which is incorporated therein and  
15 with which this Court agrees) and overrules the Objections.

16 IT IS HEREBY ORDERED THAT: (1) for the reasons stated in the  
17 Dismissal Order, the specified claims and defendants in the Original Complaint are  
18 dismissed; (2) the Request for Judicial Notice is granted; (3) the Motion to Dismiss  
19 is granted to the extent it seeks dismissal of the Second Amended Complaint as  
20 time-barred; (4) the Summary Judgment Motion is denied; (5) the Second  
21 Amended Complaint is dismissed without leave to amend and this action is  
22 dismissed with prejudice; and (6) the Clerk shall enter judgment accordingly.

23 IT IS FURTHER ORDERED that the Clerk serve copies of this Order and  
24 the Report and Recommendation on Plaintiff and counsel for Defendants.

25 IT IS SO ORDERED

26 DATED: September 20, 2016



DOLLY M. GEE  
UNITED STATES DISTRICT JUDGE