



1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a  
2 *de novo* review of this case. Having carefully reviewed and considered the entire file, including  
3 plaintiff’s objections and defendant’s reply thereto, the court finds the findings and  
4 recommendations to be supported by the record and proper analysis.

5 In his objections, plaintiff asserts in a confusing fashion<sup>1</sup> that this action should not be  
6 dismissed as barred by the statute of limitations because he was transferred in between various  
7 special housing units (“SHUs”) and because defendant Dr. Dwivedi had left Corcoran State  
8 Prison (“Corcoran”) and opened his own medical office elsewhere. (Doc. No. 85 at 2, 21.)  
9 Plaintiff states that due to defendant’s departure from Corcoran, plaintiff was unable to conduct  
10 the necessary research regarding defendant’s whereabouts because plaintiff did not have access to  
11 a computer in the SHU. (*Id.* at 2–3.) Plaintiff requests equitable tolling of the statute of  
12 limitations based upon these circumstances for an unspecified period of time so that this action  
13 may proceed as timely filed. (*Id.* at 3.)

14 Defendant’s reply begins with a request that plaintiff’s objections not be considered  
15 because they were untimely. (Doc. No. 89 at 2.) Defendant then argues that plaintiff has not  
16 provided any legal arguments or factual support that refute the pending findings and  
17 recommendations. (*Id.* at 4–5.) Defendant further asserts that neither California’s equitable  
18 tolling doctrine nor any equitable tolling available for his federal claims excuse plaintiff’s failure  
19 to file his suit within the applicable statute of limitations. (*Id.* at 2–5.)

20 The undersigned agrees with the magistrate judge’s determination that the statute of  
21 limitations had expired before plaintiff filed this action. (Doc. No. 83 at 16.) As outlined in the  
22 pending findings and recommendations, the statute of limitations began to run shortly after  
23 plaintiff’s surgery in April 2010 because plaintiff was immediately aware that there was issue  
24 with that surgery. (Doc. Nos. 1 at 3; 83 at 16–17.) Specifically, plaintiff alleges that when he  
25 awoke from surgery, he realized that a portion of his testicle appeared to have been removed

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26 <sup>1</sup> Plaintiff’s objections also include various unexplained factual recitations and quotations, which  
27 appear to be from case law and/or various statutes. (*See, e.g., id.* at 3–14.) The court reviewed  
28 these sections of the objections but does not summarize them here due to their difficult-to-discern  
nature.

1 without his consent. (*Id.*) However, plaintiff did not commence this action until May 10, 2018,  
2 more than eight years after the actions were taken about which he complains, approximately four  
3 years after the running of the limitations period. (Doc. No. 1.) Thus, plaintiff's objections  
4 provide no basis upon which to reject the pending findings and recommendations.

5 Accordingly,

- 6 1. The findings and recommendations (Doc. No. 83) issued on June 10, 2021 are  
7 adopted;
- 8 2. Defendant's motion to dismiss filed on February 8, 2021 (Doc. No. 73) is granted;
- 9 3. This case is dismissed as time-barred under the applicable statutes of limitations;  
10 and
- 11 4. The Clerk of the Court is directed to close this case.

12 IT IS SO ORDERED.

13 Dated: September 7, 2021

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16 UNITED STATES DISTRICT JUDGE  
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