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Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed August 14, 2014, are adopted in full; and

2. Defendants' motion to dismiss (ECF No. 22) is granted in that plaintiff's Eighth Amendment claim is dismissed with leave to amend, and that claims based on conditions existing before January 2006 are dismissed without leave to amend, as barred by the statute of limitations;

3. Plaintiff is granted leave to file an amended complaint to cure the deficiencies in his Eighth Amendment claim, within thirty days of the filing date of this order; and

4. If plaintiff chooses not to file an amended complaint and instead, to proceed solely on his Fourteenth Amendment claim, then defendants are required to file an answer within 45 days of the filing date of this order.

DATED: November 14, 2014

/s/ John A. Mendez

UNITED STATES DISTRICT COURT JUDGE