1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 DWIGHT M. DEBOSE, No. 2:20-cv-0108 WBS KJN P 12 Plaintiff. 13 v. ORDER 14 J. WEISS, et al., 15 Defendant. 16 17 Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief 18 under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 19 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 20 On August 25, 2020, the magistrate judge filed findings and recommendations herein 21 which were served on plaintiff and which contained notice to plaintiff that any objections to the 22 findings and recommendations were to be filed within twenty-one days. On September 23, 2020, plaintiff was granted an additional 45 days in which to file objections. Plaintiff filed objections to 23 24 the findings and recommendations. Plaintiff now contends that in addition to his due process and failure to protect claims, 25 plaintiff also raised a professional negligence claim. Plaintiff's argument is unavailing because 26 27 ¹ Plaintiff did not specifically plead any state law claims in his complaint. (ECF No. 1, passim.) 28 But to the extent plaintiff's allegations could be construed as raising state law negligence or 1

1	professional negligence claims under California Penal Code § 340.5 only apply to health care
2	providers rendering professional services. Cal. Penal Code § 340.5(1), (2). Plaintiff's allegations
3	that defendants falsely claimed plaintiff agreed to fight with inmate Croy do not transform
4	plaintiff's claim into a professional negligence cause of action. Moreover, allegations of
5	negligence do not suffice to state a constitutional claim. See Farmer v. Brennan, 511 U.S. 825,
6	835 (1994) (holding that "deliberate indifference entails something more than mere negligence").
7	In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
8	court has conducted a de novo review of this case. Having carefully reviewed the entire file, the
9	court finds the findings and recommendations to be supported by the record and by proper
10	analysis.
11	Accordingly, IT IS HEREBY ORDERED that:
12	1. The findings and recommendations filed August 25, 2020, are adopted;
13	2. Supplemental jurisdiction over plaintiff's putative state law claims is declined;
14	3. Plaintiff's federal claims are dismissed, with prejudice, as barred by the statute of
15	limitations; and
16	4. The Clerk is directed to close the file in this action.
17	Dated: December 18, 2020
18	WILLIAM B. SHUBB
19	UNITED STATES DISTRICT JUDGE
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27	failure to protect claims, the Court declines to exercise supplemental jurisdiction in light of the
28	dismissal of plaintiff's federal claims. See 28 U.S.C. § 1367(a).