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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

RAMON J. SAPP,

Plaintiff,

No. C 11-5120 PJH (PR)

vs.

**ORDER DISMISSING CASE**

M. LALOR, B. WOO, K. EDISON, V.  
ETCHEBER, D. NASTARI, C. FABRI,  
T. BOES, B. PEAGLER, Inspector  
HOLLORAN, P. BERMUEZ, L.  
LARGAREJOS, V. JACKSON, and  
JOHN DOES,

Defendants.

Plaintiff, a prisoner at California Medical Facility, has filed a pro se civil rights complaint under 42 U.S.C. § 1983. Plaintiff contends that defendants, all law enforcement officers, conspired to kill him. They encountered him at a gas station, where he says they fired on him, "shooting him down." He asserts that defendants stood over him firing, although he was lying on the ground and unarmed. He says that he was shot approximately forty times, and lost his left leg as a result. This incident occurred in 2002. Plaintiff was informed that the applicable statute of limitations was four years and he was ordered to show cause why this case should not be dismissed as untimely. He has filed a response.

Plaintiff contends that he was mentally incompetent until August 2011, and unable to understand the need to timely file his complaint against the defendants. Plaintiff seeks tolling due to his mental impairment. However, plaintiff's claims are contradicted by the records of lawsuits he has filed.

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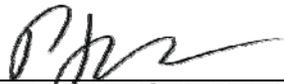
**United States District Court**  
For the Northern District of California

1 Plaintiff had a previous lawsuit in this court involving the medical care he received  
2 after the shooting. It was settled and judgments dismissing the claims with prejudice were  
3 entered. *See Sapp v. County of Alameda*, No. C 03-1066 PJH (Aug. 29, 2006; Dec. 21,  
4 2006). Though, plaintiff was represented by counsel in that case. Plaintiff, proceeding pro  
5 se filed another case on April 9, 2008. *See Sapp v. San Francisco Police Department*, No.  
6 C 08-1903 PJH. That complaint concerned the same allegations of excessive force raised  
7 in this complaint and was dismissed without prejudice for failure to file a complete in forma  
8 pauperis application. A review of plaintiff's complaint, amended complaint and many letters  
9 written in 2008, severely contradict his contention that he was mentally incompetent for the  
10 past ten years and demonstrate that he was quite able to file lawsuits.

11 Accordingly, this case is **DISMISSED** as untimely.

12 **IT IS SO ORDERED.**

13 Dated: February 4, 2013.

  
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PHYLLIS J. HAMILTON  
United States District Judge

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