

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

CARLOS CRESPO,
DC# 106605,

Plaintiff,

v.

4:16cv471–WS/CAS

FLORIDA COMMISSION ON
OFFENDER REVIEW,

Defendant.

ORDER OF DISMISSAL

Before the court is the magistrate judge's report and recommendation (doc. 26) docketed March 9, 2017. See Doc. 74. The magistrate judge recommends that the defendant's motion to dismiss (doc. 19) be granted and that the plaintiff's action be dismissed as barred by the statute of limitations. The plaintiff has filed objections (doc. 28) to the report and recommendation. Among other things, the plaintiff contends that the magistrate judge erred in finding that the equitable tolling doctrine was not applicable in this case. This court finds no such error.

Having considered the record in light of the plaintiff's objections, the court finds that the magistrate judge's report and recommendation should be adopted.¹

The plaintiff maintains that Accordingly, it is ORDERED:

1. The magistrate judge's report and recommendation (doc. 26) is ADOPTED and incorporated into this order by reference.
2. The defendant's motion to dismiss (doc. 19) is GRANTED.
3. The plaintiff's first amended complaint (doc. 17) and this action are DISMISSED with prejudice as untimely.
4. The clerk shall enter judgment stating: "All claims are DISMISSED with prejudice."
5. The clerk shall terminate all pending motions and close the case.

DONE AND ORDERED this 31st day of March, 2017.

s/ William Stafford
WILLIAM STAFFORD

¹ Although the magistrate judge did not address the defendant's Eleventh Amendment immunity argument, this court notes that the Florida Commission on Offender Review (previously named the Florida Parole Commission) is a state agency entitled to Eleventh Amendment immunity in federal court. *See, e.g., Adlington v. Spooner*, 743 So. 2d 1195, 1195 (Fla. 4th DCA 1999) (holding that the Florida Parole Commission is a state agency).

SENIOR UNITED STATES DISTRICT JUDGE