

Plaintiff's objections, the Court feels that some discussion of the objections is warranted because some of the objections raise new issues not addressed in the Recommendation.

As to his objection that the Magistrate Judge failed to consider his 42 U.S.C. § 1985 claim, the Court finds that to the extent that it alleges a conspiracy by Defendants occurring prior to March 29, 2004, the claim is barred by Georgia's two year statute of limitations. See Rozar v. Mullis, 85 F.3d 556, 561 (11th Cir.1996) (stating that the proper limitations period for claims brought under §§ 1983 and 1985 is the personal injury limitations period of the forum state). To the extent that it alleges a conspiracy between Defendants occurring during his criminal prosecution, it is barred by Heck v. Humphrey, 512 U.S. 477, 114 S. Ct. 2364 (1994).

Plaintiff also objects to the Magistrate Judge's failure to find that the Georgia statute of limitations is tolled for the period of time that Plaintiff was imprisoned outside the state of Georgia. Georgia statute § 9-3-94 permits the tolling of a statute of limitations if a defendant is not within the state. See Ga. Stat. § 9-3-94 (stating that "if a *defendant* removes from this state, the time of his absence from the statute until he returns to reside shall not be counted or estimated in his favor) (emphasis added). This tolling statute is inapplicable because Plaintiff is not a defendant party in this civil case.

Accordingly, Plaintiff's case against Defendants is dismissed.

SO ORDERED, this the 22nd day of January, 2010.

s/ Hugh Lawson
HUGH LAWSON, SENIOR JUDGE

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