

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

BRADLEY PRICE BARBER,)	
)	
Plaintiff,)	
)	
vs.)	No. CIV-15-78-C
)	
DR. DONALD SUTMILLER, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff brought the present action pursuant to 42 U.S.C. § 1983, seeking recompense for alleged violations of his constitutional rights. Consistent with the provisions of 28 U.S.C. § 636(b)(1)(B), this action was referred to United States Magistrate Judge Charles B. Goodwin. Judge Goodwin entered a Report and Recommendation on August 11, 2016, to which Plaintiff has timely objected.

The facts and law are accurately set out in the Magistrate Judge's Report and Recommendation and there is no purpose to be served in repeating them yet again. With one exception, each issue raised by Plaintiff in his Objection was considered and rejected by Judge Goodwin. The sole exception is Plaintiff's argument that Colorado's statute of limitation tolling provision should apply. However, Plaintiff offers no authority demonstrating that Colorado law should apply to events that have occurred solely in the state of Oklahoma. Accordingly, that argument will be rejected. Each of Plaintiff's other objections are rejected for the reasons set forth by Judge Goodwin.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge (Dkt. No. 96), and for the reasons announced therein:

1. Plaintiff's § 1983 claim seeking damages against Defendants Suttmiller, McCoy, Wagener, and Jones in their official capacities is DISMISSED without prejudice because these Defendants are immune from such claims.
2. Plaintiff's § 1983 claim against Defendants Reiheld, Roof, Miller, CCA, and McCoy in their individual capacities is DISMISSED with prejudice as time-barred. Defendants Reiheld, Roof, Miller, CCA, and McCoy are DISMISSED from the lawsuit.
3. Plaintiff's § 1983 claim against Defendant Suttmiller, in his individual capacity, is DISMISSED with prejudice as time-barred to the extent that claim seeks to recover for a delay or denial of medical care prior to January 26, 2013.
4. Plaintiff's motions concerning his attempts to serve process on Defendants Reiheld and Roof (Dkt. Nos. 81, 85, 87, 93) are denied as moot.
5. Plaintiff's § 1983 conspiracy claim against all Defendants is DISMISSED without prejudice for failure to state a claim upon which relief can be granted.
6. Plaintiff's state-law claim against all Defendants is DISMISSED with prejudice as time-barred.

This matter is returned to Judge Goodwin for further proceedings consistent with the original order of referral.

IT IS SO ORDERED this 7th day of December, 2016.


ROBIN J. CAUTHRON
United States District Judge