

APR 16 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DEMITRIUS McGEE,

Plaintiff - Appellant,

v.

CHAMBERLIN, M.D.; et al.,

Defendants - Appellees.

No. 14-56173

D.C. No. 3:13-cv-01020-WQH-
JMA

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
William Q. Hayes, District Judge, Presiding

Submitted April 7, 2015**

Before: FISHER, TALLMAN, and NGUYEN, Circuit Judges.

California state prisoner Demitrius McGee appeals pro se from the district court's judgment dismissing his action alleging Eighth Amendment violations in connection with his medical treatment. We have jurisdiction under 28 U.S.C.

§ 1291. We review de novo the district court's dismissal of an action as barred by

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

the applicable statute of limitations, *Ellis v. City of San Diego*, 176 F.3d 1183, 1188 (9th Cir. 1999), and we affirm.

The district court dismissed McGee's claims as untimely, and he has failed to make a showing that his claims were not time-barred or entitled to any tolling beyond that afforded by the district court. *See* Cal. Civ. Proc. Code §§ 335.1, 352.1(a) (two-year statute of limitations for personal injury claims; two-year tolling period due to incarceration). Contrary to McGee's contention, the record shows that he had adequate notice of the grounds upon which his claims were dismissed.

AFFIRMED.