

At the February 8, 2010 Status Conference, plaintiff explained his claims against defendant Olathe Medical Center, Inc. to Judge O'Hara. Based on the record and the information provided by

plaintiff, Judge O'Hara found that plaintiff's claims are barred by the statute of limitations because they seek redress for injuries suffered in 1982 or 1983—over 25 years ago. Because plaintiff's claims are barred by the statute of limitations, Judge O'Hara recommends that plaintiff's case be dismissed as frivolous.

The facts and law are accurately set forth in the Report and Recommendation, and the court will not unnecessarily repeat them here. The court may dismiss a claim sua sponte under § 1915(e) when an affirmative defense is “‘obvious from the face of the complaint’ and ‘no further factual record [is] required to be developed.’” *Fractus v. DeLand*, 49 F.3d 673, 674–75 (10th Cir. 1995) (quoting *Yellen v. Cooper*, 828 F.2d 1471, 1476 (10th Cir. 1987)). The court provided plaintiff with an opportunity to explain why his claims are not barred by the statute of limitation. Although Plaintiff's objection states that dismissal is unfair, it does not provide a legal basis for plaintiff's claims against defendant. The complaint appears on its face, and on the record before the court, to be time-barred—plaintiff has stated that he was aware of the injuries more than 25 years ago. The court cannot offer plaintiff the redress he seeks. The court finds that plaintiff has failed to show good cause. As Judge O'Hara explained in his Report and Recommendation, plaintiff's claims are barred by the statute of limitations.

For the reasons set forth in the Report and Recommendation, the court finds that dismissal is appropriate in this case.

**IT IS THEREFORE ORDERED** that plaintiff's Objection to Magistrate Judge O'Hara's Report and Recommendation (Doc. 14) is overruled.

**IT IS THEREFORE ORDERED** that the case is dismissed.

Dated this 25th day of February 2010, at Kansas City, Kansas.

s/ Carlos Murguia  
**CARLOS MURGUIA**  
**United States District Judge**