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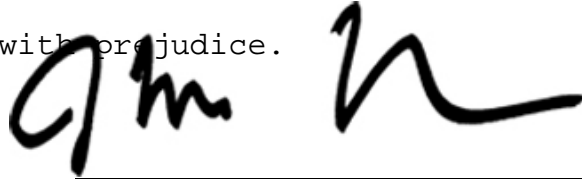
**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

OSCAR CERVANTES,	)	Case No. CV 15-5195-JAK (JPR)
	)	
Petitioner,	)	
	)	ORDER ACCEPTING FINDINGS AND
vs.	)	RECOMMENDATIONS OF U.S.
	)	MAGISTRATE JUDGE
WILLIAM MUNIZ, Warden,	)	
	)	
Respondent.	)	
<hr/>	)	

The Court has reviewed the Petition, records on file, and Report and Recommendation of U.S. Magistrate Judge. See 28 U.S.C. § 636. On October 1, 2015, Petitioner, through counsel, filed objections to the R&R, even though he did not file any opposition or other response to Respondent’s motion to dismiss the Petition. Counsel argues for the first time that Petitioner is entitled to equitable tolling. (Objections at 3-4.) He acknowledges that he filed the Petition one day late as a result of a calendaring mistake (see id. at 4), but he asserts that Petitioner is nonetheless entitled to equitable tolling because his family did not retain counsel until six days before the expiration of the one-year limitation period (id. at 3). But

1 counsel does not assert that he could not have completed the  
2 Petition in time to file it on July 8, 2015, and indeed the  
3 Petition contains just a paragraph each concerning its four  
4 claims. Counsel also has not explained why Petitioner's family  
5 did not retain him until nearly the expiration of the limitation  
6 period, offering no evidence or argument that Petitioner acted  
7 diligently or that some extraordinary circumstance stood in his  
8 way.<sup>1</sup>

9 Accordingly, having reviewed de novo those portions of the  
10 R&R to which objections were filed, the Court accepts the  
11 findings and recommendations of the Magistrate Judge. IT IS  
12 ORDERED that the Petition is denied as untimely and Judgment be  
13 entered dismissing this action with prejudice.



14  
15 DATED: 10/26/15

16 JOHN A. KRONSTADT  
17 U.S. DISTRICT JUDGE

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<sup>1</sup> Counsel has not addressed the Magistrate Judge's observation (R&R at 6 n.1) that the Petition appears to be "mixed" – that is, some of its claims have not yet been exhausted in state court – and is likely subject to dismissal on that basis as well.