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

DAVID KENT FITCH,)	NO. EDCV 16-1227-DOC (KS)
)	
Petitioner,)	
)	
v.)	ORDER ACCEPTING FINDINGS AND
)	RECOMMENDATIONS OF UNITED
CALVIN JOHNSON,)	STATES MAGISTRATE JUDGE
)	
Respondent.)	
_____)	

Pursuant to 28 U.S.C. § 636, the Court has reviewed the First Amended Petition for Writ of Habeas Corpus (“Petition”), all of the records herein, the Report and Recommendation of United States Magistrate Judge (“Report”), and Petitioner’s Objections to the Magistrate Judge’s Report and Recommendation (“Objections”). Pursuant to 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b), the Court has conducted a *de novo* review of those portions of the Report to which objections have been stated.

In the Objections, Petitioner presents a new claim concerning the speed with which the government prosecuted this case. Respondent received no prior notice of Petitioner’s novel claim, the claim has not been briefed, and, further, the claim may not be timely. Accordingly, the Court exercises its discretion not to consider arguments presented for the first time in

1 objections to a report and recommendation. *See Brown v. Roe*, 279 F.3d 742, 744-45 (9th Cir.
2 2002); *United States v. Howell*, 231 F.3d 615, 621-22 (9th Cir. 2000).

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4 Having completed its review, the Court accepts the findings and recommendations set
5 forth in the Report. Therefore, IT IS ORDERED that: (1) the Petition is DENIED; and (2)
6 Judgment shall be entered dismissing this action with prejudice.

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8 DATED: April 25, 2017



10 DAVID O. CARTER
11 UNITED STATES DISTRICT JUDGE
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