IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

KOUA XIONG, Petitioner, **v.** **MARTIN BITER,** Respondent.	1:14-cv-02078 AWI MJS HC **ORDER ADOPTING FINDINGS AND RECOMMENDATION** **[Docs. 14, 18]**

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On March 30, 2015, the Magistrate Judge issued a Findings and Recommendation that Respondent's Motion to Dismiss be GRANTED. This Findings and Recommendation was served on all parties with notice that any objections were to be filed within thirty (30) days of the date of service of the order. Neither party filed objections.

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this Court has conducted a *de novo* review of the case. Having carefully reviewed the entire file, the Court concludes that the Magistrate Judge's Findings and Recommendation is supported by the record and proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendation issued March 30, 2015, is ADOPTED;
2. Respondent's Motion to Dismiss is GRANTED;
3. The Petition for Writ of Habeas Corpus is DISMISSED with prejudice as untimely; and
4. The Court DECLINES to issue a Certificate of Appealability. 28 U.S.C. § 2253(c); Slack v. McDaniel, 529 U.S. 473, 484 (2000) (in order to obtain a COA, petitioner must show: (1) that jurists of reason would find it debatable whether the petition stated a valid claim of a denial of a constitutional right; and (2) that jurists of reason would find it debatable whether the district court was correct in its procedural ruling. Slack v. McDaniel, 529 U.S. 473, 484 (2000). In the present case, jurists of reason would not find debatable whether the petition was properly dismissed with prejudice as time-barred under 28 U.S.C. § 2244(d)(1). Petitioner has not made the required substantial showing of the denial of a constitutional right.

IT IS SO ORDERED.

Dated: June 10, 2015

SENIOR DISTRICT JUDGE