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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MICHAEL R. RANDLE,

Petitioner,

vs.

JAMES TILTON, Secretary of the California
Department of Corrections and
Rehabilitation,

Respondent.

CASE NO. 07-CV-0628-BEN (CAB)

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Michael R. Randle, a state prisoner proceeding *pro se*, brought this Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254. Respondent moved to dismiss the Petition as untimely. On December 31, 2007, Magistrate Judge Cathy Ann Bencivengo issued a Report and Recommendation that the motion to dismiss be granted and the Petition be dismissed with prejudice. Any party that wished to file objections had until February 4, 2008, to do so. As of the date of this Order, no objections have been filed. For the reasons stated below, the Court adopts the well-reasoned and thorough Report and Recommendation; grants Respondent's Motion to Dismiss; and dismisses the Petition with prejudice.

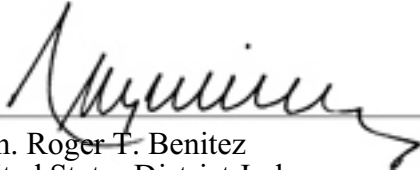
A district judge "may accept, reject, or modify the recommended decision" on a dispositive matter prepared by a magistrate judge proceeding without the consent of the parties for all purposes. Fed.R.Civ.P. 72(b); *see* 28 U.S.C. § 636(b)(1). "The court shall make a *de novo* determination of those portions of the [report and recommendation] to which objection is made."

1 28 U.S.C. § 636(b)(1). Section 636(b)(1) does not require some lesser review by the district court
2 when no objections are filed. *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985). The “statute makes it
3 clear that the district judge must review the magistrate judge's findings and recommendations *de*
4 *novo* if objection is made, but not otherwise.” *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121
5 (9th Cir. 2003) (en banc) (emphasis in the original); see *Schmidt v. Johnstone*, 263 F.Supp.2d
6 1219, 1225-26 & n. 5 (D. Ariz. 2003).

7 In the absence of any objections, this Court adopts in full the Report and Recommendation.
8 Accordingly, Respondent’s Motion to Dismiss is **GRANTED**, and the Petition for Writ of Habeas
9 Corpus is dismissed with prejudice.

10 IT IS SO ORDERED.

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12 DATED: February 5, 2008

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15 Hon. Roger T. Benitez
16 United States District Judge
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