



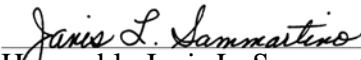
1 In this case, Petitioner has not timely filed objections to Magistrate Judge McCurine's R&R.  
2 Thus, the Court has reviewed the R&R for clear error. Finding none, and noting that Judge  
3 McCurine's Order is thorough, well reasoned, and no contains no clear error, the Court **ADOPTS** the  
4 R&R in full and **DISMISSES** the petition as barred by the statute of limitations.

5 Finally, this Court is under an obligation to determine whether a certificate of appealability  
6 should issue in this matter. A certificate of appealability is authorized "if the applicant has made a  
7 substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). "A petitioner  
8 satisfies this standard by demonstrating that jurists of reason could disagree with the district court's  
9 resolution of his constitutional claims or that jurists could conclude the issues presented are adequate  
10 to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003); *see*  
11 *also Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The Court must either (1) grant the certificate of  
12 appealability indicating which issues satisfy the required showing or (2) state why a certificate should  
13 not issue. Fed. R. App. P. 22(b).

14 Since this petition was filed well outside of the limitations period, the Court finds that the  
15 Petitioner has not made a substantial showing of the denial of a constitutional right. Accordingly, no  
16 certificate of appealability should issue.

17 IT IS SO ORDERED.

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19 DATED: March 16, 2010

20   
21 Honorable Janis L. Sammartino  
22 United States District Judge  
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