-PCL Larson	on v. Carrasco	Ooc. 46
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8	UNITED STATES DISTRICT COURT	
9	SOUTHERN DISTRICT OF CALIFORNIA	
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11	HARVEY EUGENE LARSON,) Civil No. 09cv745-L(PCL)	
12	Petitioner, SCHEDULING ORDER	
13	v. \	
14	CARRASCO, Warden, et al.	
15	Respondents.	
16		
17	Petitioner Harvey Eugene Larson, a state prisoner proceeding pro se and in forma	
18	pauperis, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. Section 2254. The	
19	case was referred to United States Magistrate Judge Peter C. Lewis for a report and	
20	recommendation pursuant to 28 U.S.C. Section 636(b)(1)(B) and Civil Local Rule 72.3.	
21	Respondent filed a motion to dismiss the Petition as time-barred under 28 U.S.C. Section	
22	2244(d). Subsequently, the Magistrate Judge issued a Report and Recommendation	
23	recommending the Petition be dismissed. For the reasons stated in the August 23, 2010 order,	
24	the Report and Recommendation was adopted in part and remanded in part to the Magistrate	
25	Judge. After remand, the Magistrate Judge has issued the Second Report and Recommendation	
26	on Motion to Dismiss Petition for Writ of Habeas Corpus (the "Second Report and	
27	Recommendation").	
28	Petitioner has a right to object to the Second Report and Recommendation. See Fed. R.	
	09cv74	.5

Civ. P. 72(b)(2). Accordingly, no later than **January 28, 2011** Petitioner may file and serve objections, if any, to the Second Report and Recommendation. However, based on Petitioner's habit of including new legal theories of statute of limitations tolling with each opportunity he has to address the court, as stated in the August 23, 2010 order and reiterated in the Second Report and Recommendation, in the absence of showing of good cause, the Court is not inclined to consider Petitioner's objections to the extent they are based on new evidence or argument.

Any reply to Petitioner's objections shall be filed and served no later than **February 11**, **2011**. The parties are advised that failure to file objections within the specified time may waive the right to raise those objections on appeal of this order. *Martinez v. Ylst*, 951 F.2d 1153, 1156 (9th Cir. 1991).

IT IS SO ORDERED.

DATED: January 3, 2011

M. James Lorenz United States District Court Judge

COPY TO:

HON. PETER C. LEWIS UNITED STATES MAGISTRATE JUDGE

ALL PARTIES/COUNSEL

09cv745