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

JULIE LYNN SPENCER,  
  
vs.  
MARY LATTIMORE, et al.,

Petitioner,  
  
Respondents.

CASE NO. 09cv2541 BEN (CAB)  
  
**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

    Petitioner Julie Lynn Spencer filed a Second Amended Petition for writ of habeas corpus under 28 U.S.C. § 2254. (Dkt. No. 7.) Respondents moved to dismiss the Petition as time-barred by the applicable statute of limitations. (Dkt. No. 13.)

    Magistrate Judge Cathy Ann Bencivengo issued a thoughtful and thorough Report and Recommendation recommending Respondents' motion be denied and that Respondents be ordered to file an Answer to the Petition and lodge all documents relating to the case. (Dkt. No. 14.) Any objections to the Report and Recommendation were due September 12, 2011. (*Id.*) Respondents did not file any objections. Having reviewed the matter de novo and for the reasons that follow, the Report and Recommendation is **ADOPTED**.

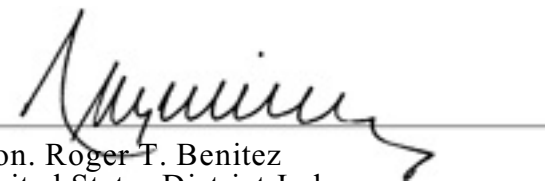
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1 A district judge “may accept, reject, or modify the recommended disposition” of a  
2 magistrate judge on a dispositive matter. FED. R. CIV. P. 72(b)(3); *see also* 28 U.S.C.  
3 §636(b)(1). “[T]he district judge must determine de novo any part of the [report and  
4 recommendation] that has been properly objected to.” FED. R. CIV. P. 72(b)(3). However,  
5 “[t]he statute makes it clear that the district judge must review the magistrate judge’s findings  
6 and recommendations de novo *if objection is made*, but not otherwise.” *United States v.*  
7 *Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (emphasis in original), *cert*  
8 *denied*, 540 U.S. 900 (2003); *see also Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir.  
9 2005). “Neither the Constitution nor the statute requires a district judge to review, de novo,  
10 findings and recommendations that the parties themselves accept as correct.” *Reyna-Tapia*,  
11 328 F.3d at 1121.

12 In the absence of any objections, the Court fully **ADOPTS** Judge Bencivengo’s Report  
13 and Recommendation. Respondents’ Motion to Dismiss is **DENIED**. Respondents shall file  
14 an Answer to the Petition.

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16 **IT IS SO ORDERED.**

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18 DATED: September 19, 2011

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21 Hon. Roger T. Benitez  
22 United States District Judge

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