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

KASSANDRA OLIVER,  
  
Plaintiff,  
  
vs.  
  
MICHAEL J. ASTRUE, Commissioner of  
Social Security,  
  
Defendant.

CASE NO. 10 CV 398 MMA (POR)

**ORDER ACCEPTING REPORT AND  
ADOPTING FINDINGS AND  
RECOMMENDATION OF UNITED  
STATES MAGISTRATE JUDGE;**

[Doc. No. 13]

**GRANTING DEFENDANT’S  
MOTION TO DISMISS PLAINTIFF’S  
COMPLAINT**

[Doc. No. 8]

On February 19, 2010, Plaintiff Kassandra Oliver filed this appeal of the final judgment of the Commissioner of Social Security denying her claim for Supplemental Security Income under Title XVI of the Social Security Act, 42 U.S.C §§ 1381, *et seq.* [Doc. No. 1.] The matter was referred to the Honorable Louisa S. Porter, United States Magistrate Judge, for report and recommendation pursuant to section 636(b)(1)(B) of title 28 of the United States Code and Civil Local Rule 72.1. *See* 28 U.S.C. § 636(b)(1)(B); S.D. Cal. Civ. R. 72.1. On May 25, 2010, Defendant moved to dismiss Plaintiff’s civil action as untimely. [Doc. No. 8.] Plaintiff failed to oppose Defendant’s motion.

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1 On March 28, 2011, Judge Porter filed a thorough and well-reasoned Report containing  
2 findings and conclusions, upon which she bases her recommendation that the Court grant  
3 Defendant's motion to dismiss, with leave to amend. [Doc. No. 13.]

4 Neither party objected to the Report and Recommendation, and the time for filing objections  
5 has expired.

6 The Court has considered the pleadings and memoranda of the parties including the exhibits  
7 to Defendant's motion to dismiss, and has made a review and determination in accordance with the  
8 requirements of 28 U.S.C. § 636 and applicable case law. Accordingly, good cause appearing,

9 **IT IS HEREBY ORDERED THAT:**

- 10 1. The Report and Recommendation [Doc. No. 13] is **ADOPTED** in its entirety;
- 11 2. Defendant's motion to dismiss [Doc. No. 8] is **GRANTED** and Plaintiff's complaint  
12 is dismissed without prejudice.
- 13 3. The Clerk of Court is instructed to close the case file.

14 **IT IS SO ORDERED.**

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16 DATED: July 7, 2011



Hon. Michael M. Anello  
United States District Judge

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