

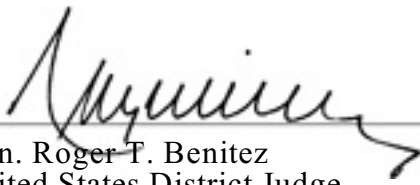
1 A district judge “may accept, reject, or modify the recommended disposition” of a
2 magistrate judge on a dispositive matter. FED. R. CIV. P. 72(b)(3); *see also* 28 U.S.C.
3 §636(b)(1). “[T]he district judge must determine de novo any part of the [report and
4 recommendation] that has been properly 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. Accordingly, the Court may grant Respondent’s motion to dismiss on this
12 basis alone.

13 The Court has, however, reviewed the matter de novo and agrees that the motion to
14 dismiss should be granted because the Petition is time-barred by the Antiterrorism and
15 Effective Death Penalty Act’s one-year statute of limitations. The statute of limitations expired
16 on January 14, 2010. The Court agrees with the Magistrate Judge’s finding that Petitioner was
17 entitled to statutory tolling, but that tolling only extended the deadline until March 17, 2010
18 and Petitioner did not file his Petition until September 20, 2010. Furthermore, the Court agrees
19 that Petitioner is not entitled to equitable tolling.

20 In the absence of any objections and after a de novo review, the Court fully **ADOPTS**
21 Judge Major’s Report and Recommendation. The Petition is **DISMISSED with prejudice** as
22 time barred.

23
24 **IT IS SO ORDERED.**

25 DATED: September 2, 2011

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27 
28 Hon. Roger T. Benitez
United States District Judge