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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 SENGNGUEN KOULAVONGSA,  
12 Plaintiff,  
13 v.  
14 CALIFORNIA, et al.,  
15 Defendants.

Case No.: 16cv1115-JLS (NLS)

**ORDER (1) ADOPTING REPORT  
AND RECOMMENDATION AND (2)  
DENYING AMENDED PETITION  
FOR WRIT OF HABEAS CORPUS**

(ECF Nos. 6, 14)

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18 Presently before the Court are Petitioner’s First Amended Petition for Writ of  
19 Habeas Corpus (“Amended Pet.”), (ECF No. 6), and Magistrate Judge Nita L. Stormes’s  
20 Report and Recommendation for Order Denying Petition for Writ of Habeas Corpus (“R.  
21 & R.”), (ECF No. 23).

22 Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1) set forth a district  
23 court’s duties in connection with a magistrate judge’s Report and Recommendation. The  
24 district court must “make a de novo determination of those portions of the report to which  
25 objection is made,” and “may accept, reject, or modify, in whole or in part, the findings or  
26 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); *see also United*  
27 *States v. Raddatz*, 447 U.S. 667, 673–76 (1980); *United States v. Remsing*, 874 F.2d 614,  
28 617 (9th Cir. 1989). In the absence of timely objection, however, the Court “need only

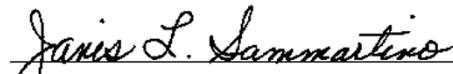
1 satisfy itself that there is no clear error on the face of the record in order to accept the  
2 recommendation.” Fed. R. Civ. P. 72 advisory committee’s note (citing *Campbell v. U.S.*  
3 *Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974)).

4 In the present case, Petitioner’s objections were due by November 17, 2016. (R. &  
5 R. 9.) Over three months have passed since the due date, and the Court has heard nothing  
6 from Petitioner. Accordingly, Petitioner failed to timely object to the Report and  
7 Recommendation.

8 Finally, having reviewed the Report and Recommendation, the Court finds that it is  
9 well reasoned and contains no clear error—Petitioner’s claim regarding his counsel’s  
10 failure to object to certain evidence is foreclosed by *Tollett v. Henderson*, 411 U.S. 258  
11 (1973), and Petitioner offers no evidence that his plea was coerced or that he would have  
12 obtained a more favorable verdict at trial. The Court therefore (1) **ADOPTS** in its entirety  
13 Judge Stormes’s Report and Recommendation, (ECF No. 23), and (2) **DENIES WITH**  
14 **PREJUDICE** the Amended Petition, (ECF No. 6).

15 **IT IS SO ORDERED.**

16 Dated: March 9, 2017

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18 Hon. Janis L. Sammartino  
19 United States District Judge  
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