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

MICHAEL SEVILLA,

CASE NO. 15cv1280 DMS (JLB)

Petitioner,

v.

**ORDER (1) ADOPTING
MAGISTRATE JUDGE'S REPORT
AND RECOMMENDATION AND
(2) DISMISSING PETITION
WITHOUT PREJUDICE**

AMY MILLER, Warden,

Respondent.

On June 8, 2015, Petitioner Michael Sevilla ("Petitioner"), a state prisoner proceeding *pro se*, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On December 28, 2016, Magistrate Judge Jill Burkhardt issued a Report and Recommendation ("R&R") recommending that the Court dismiss the petition without prejudice for lack of jurisdiction, or in the alternative, that the Court deny the petition on the merits. No party has filed objections to the R&R, and the time for doing so has expired.

This Court, having reviewed *de novo* the Magistrate Judge's R&R, adopts the Magistrate Judge's recommendation to dismiss the petition without prejudice. Accordingly, the petition is dismissed without prejudice for the reasons set out in the R&R. The Court finds no basis for a certificate of appealability.

IT IS SO ORDERED.

DATED: March 24, 2017



HON. DANA M. SABRAW
United States District Judge