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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 STEVEN DOYLE BURTON,
12 Petitioner,
13 v.
14 SUPERIOR COURT OF
15 CALIFORNIA, COUNTY OF SAN
16 DIEGO,
17 Respondent.

Case No.: 16cv2321-LAB (AGS)

**ORDER DENYING MOTION FOR
CERTIFICATE OF
APPEALABILITY; AND**

**ORDER SUA SPONTE
EXTENDING DEADLINE FOR
OBJECTIONS**

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19 On November 2, 2017, Magistrate Judge Andrew Schopler issued a report
20 and recommendation (the "R&R"), recommending that Petitioner Steven Doyle
21 Burton's petition for writ of habeas corpus under 28 U.S.C. § 2254 be denied. The
22 R&R gave the parties 14 days to file any objections.

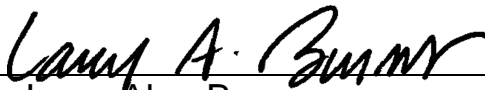
23 Burton filed no objections, but instead submitted a motion for certificate of
24 appealability, dated November 7. While the motion uses the case number for this
25 case, the caption identifies it as being filed in the case of *United States of America,*
26 *Plaintiff v. Steven Doyle Burton, Defendant.* The body of the motion addresses a
27 federal criminal case against Burton presided over by Judge Anthony Battaglia,
28 not the state conviction from which he is seeking relief.

1 Burton was a Defendant in two federal cases against him in this District, both
2 presided over by Judge Battaglia: 15cr2443-AJB, *United States of America v.*
3 *Steven Doyle Burton* (filed November 25, 2014); and 16cr746-AJB, *United States*
4 *of America v. Steven Doyle Burton* (filed April 7, 2016). The former was dismissed
5 on April 15, 2016. In the latter, Doyle was convicted on three of four counts and
6 his appeal is now pending. It appears Burton's motion is addressing one or both of
7 those cases, rather than this one.

8 Because the Court has not entered a final order, Doyle's motion for a
9 certificate of appealability is premature, and is **DENIED**. The time for Doyle to file
10 objections to Judge Schopler's R&R is **EXTENDED** to **December 15, 2017**.

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12 **IT IS SO ORDERED.**

13 Dated: November 29, 2017

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16 Hon. Larry Alan Burns
17 United States District Judge
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