



**United States District Court**  
**SOUTHERN DISTRICT OF CALIFORNIA**

Victor Eugene Austin, Jr.,  
Petitioner,

**Civil Action No.** 17cv1950-MMA(WVG)

v.

C. Pfeiffer, Warden,  
Respondent.

**JUDGMENT IN A CIVIL CASE**

**Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

**IT IS HEREBY ORDERED AND ADJUDGED:**

Judge Gallo has issued a thorough and well-reasoned Report recommending that this Court grant Respondent's motion and dismiss the amended petition as untimely. To date, Petitioner has not filed an objection to the Report and Recommendation, and the time in which to do so has expired. Accordingly, the Court adopts the Report and Recommendation, grants Respondent's motion and dismisses Petitioner's amended petition with prejudice as untimely. For the reasons set forth in detail in Judge Gallo's Report and Recommendation, Petitioner has not shown "that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Accordingly, the Court declines to issue a certificate of appealability.

**Date:** 1/11/19

**CLERK OF COURT**  
**JOHN MORRILL, Clerk of Court**

By: s/ R. Chapman

R. Chapman, Deputy