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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA-WESTERN DIVISION

PACHECO. A. JOSEPH,)	Case No. CV 16-07921-JAK (AS)
)	
Petitioner,)	ORDER OF DISMISSAL
)	
v.)	
)	
THE PEOPLE OF THE STATE OF)	
CALIFORNIA,)	
)	
Respondent.)	
)	

BACKGROUND

On October 25, 2016, pro se Petitioner, Joseph A. Pacheco, currently located at Centinela State Prison in Imperial, California, filed a two-page motion for an extension of time to file a petition for writ of habeas corpus by a person in state

1 custody pursuant to 28 U.S.C. § 2254 ("Motion").¹ Petitioner
2 contends that the statute of limitations is set to expire on
3 October 21, 2016, and that he needs 60 days of additional time,
4 until December 20, 2016, to file his federal habeas petition.
5 (Docket Entry No. 1).

6
7 A Petition for Writ of Habeas Corpus can only be issued if
8 Petitioner is in state custody and such custody is in violation
9 of the Constitution, laws or treaties of the United States. 28
10 U.S.C. § 2254(c). However, Petitioner does not identify or
11 allege any claims that he intends to raise in any petition filed
12 in this Court. Thus, the Court is unable to determine whether
13 Petitioner intends to raise claims that are even cognizable on
14 federal habeas review and whether Petitioner might be entitled to
15 statutory tolling and/or equitable tolling of the AEDPA statute
16 of limitations.²

17
18 ¹ According to the attached Proof of Service by Mail,
19 Petitioner handed the Motion to prison authorities for mailing on
October 13, 2016.

20 ² Under the Antiterrorism and Effective Death Penalty Act
21 of 1996 ("AEDPA"), state prisoners have a one-year period within
22 which they must seek federal habeas review of their habeas
23 claims. 28 U.S.C. §2244(d)(1). Although Petitioner contends
24 that the statute of limitations to file a federal habeas petition
25 expires on October 21, 2016, the Court notes that, according to
26 the California courts' database (see
27 <http://appellatecases.courtinfo.ca.gov>), the California Supreme
28 Court denied Petitioner's Petition for Review on October 21, 2015
(Case No. S228219). Thus, pursuant to 28 U.S.C. § 2244(d)(1)(A)
and United States Supreme Court Rule 13.1, Petitioner's
conviction became final on January 19, 2016. Therefore, the
AEDPA limitations period began to run on January 20, 2016 (the
day after the time for seeking review of the California Supreme
Court's denial of his Petition for Review expired) and, absent
tolling, Petitioner will be required to file a federal habeas
petition no later than January 19, 2017, pursuant to 28 U.S.C. §

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