

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ALFRED WHITE,

1:10-CV-02121 AWI GSA HC

Petitioner,

ORDER FOR FURTHER BRIEFING

v.

KATHLEEN DICKINSON, Warden,

Respondent.

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On December 30, 2010, the Court directed Respondent to file a responsive pleading to the petition. Respondent filed a motion to dismiss on February 18, 2011, alleging the petition was untimely filed under 28 U.S.C. § 2244(d). Petitioner filed an opposition to the motion on April 13, 2011. Respondent did not file a reply.

Petitioner contends in his opposition that he was unable to comply with the statute of limitations because he suffers from a developmental disability. He also claims prison authorities created an unconstitutional impediment to his timely filing by failing to provide him with services normally granted to developmentally disabled prisoners. Petitioner's arguments, if true, may warrant

1 equitable tolling, see Laws v. Lamarque, 351 F.3d 919, 923 (9th Cir.2003), and/or statutory tolling,
2 see 28 U.S.C. § 2244(d)(1)(B). Accordingly, Respondent is DIRECTED to file a brief in response to
3 Petitioner's opposition within thirty (30) days of the date of service of this Order, or in the
4 alternative, a motion to withdraw the motion to dismiss. In the event Respondent files a brief in
5 response to Petitioner's opposition, Petitioner may file a reply brief within fourteen (14) days of the
6 date of service of Respondent's brief.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO ORDERED.

Dated: June 14, 2011

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE