

1 *de novo* review of the case. Having carefully reviewed the entire file, including Respondent's
2 objections and Petitioner's response, the Court concludes that the Magistrate Judge's Findings
3 and Recommendation is supported by the record and proper analysis. The Court agrees that given
4 the facts of this case, the misconduct of Petitioner's counsel was so egregious that counsel was no
5 longer acting on behalf of his client and functioning as his agent. Thus, Petitioner should not be
6 bound by his attorney's actions. The Court will grant equitable tolling until the time he filed his
7 federal petition, thereby rendering the petition timely filed.

8 Accordingly, the Court orders as follows:

- 9 1. The Findings and Recommendations, filed September 30, 2016, is adopted in full;
- 10 2. Petitioner is granted equitable tolling up to the point he filed his federal petition;
- 11 3. The petition for writ of habeas corpus is considered timely filed; and
- 12 4. The matter is referred back to the Magistrate Judge for further proceedings.

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14 IT IS SO ORDERED.

15 Dated: November 9, 2016

/s/ Lawrence J. O'Neill
16 UNITED STATES CHIEF DISTRICT JUDGE
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