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8	UNITED STATES DISTRICT COURT		
9	FOR THE EASTERN DISTRICT OF CALIFORNIA		
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11	ROWAN BROOKS,	No. 1:11-cv-01315-LJO-JLT (HC)	
12	Petitioner,	ORDER ADOPTING FINDINGS AND RECOMMENDATIONS (Doc. No. 57)	
13	v.		
14		ORDER GRANTING EQUITABLE TOLLING AND FINDING FEDERAL PETITION TIMELY FILED	
15	JAMES YATES,	ORDER REFERRING MATTER BACK TO	
16	Respondent.	MAGISTRATE JUDGE FOR FURTHER PROCEEDINGS	
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19	Petitioner is a state prisoner proceeding in propria persona with a petition for writ of		
20	habeas corpus pursuant to 28 U.S.C. § 2254. On September 30, 2016, the Magistrate Judge		
21	assigned to the case issued Findings and Recommendation to grant Petitioner equitable tolling up		
22	to the point he filed his federal petition thereby rendering the federal petition timely filed. This		
23	Findings and Recommendation was served upon all parties and contained notice that any		
24	objections were to be filed within twenty-one days from the date of service of that order. On		
25	October 18, 2016, Respondent filed objections to the Magistrate Judge's Findings and		
26	Recommendations. (Doc. No. 58). On October 31, 2016, Petitioner filed a response to		
27	Respondent's objections. (Doc. No. 59.)		
28	In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), the Court has conducted a $1$		

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 ful	1;	
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 UNITED STATES CHIEF DISTRICT JUDGE		
16	UNITED STATES CHIEF DISTRICT JUDGE		
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