

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

DANIEL LEE WHALEN,  
Petitioner,  
v.  
WARDEN, California State Prison at San  
Quentin,  
Respondent.

Case No. 1:14-cv-01865-LJO-SAB  
DEATH PENALTY CASE  
ORDER (1) REFERRING PETITIONER'S  
MOTION FOR EQUITABLE TOLLING TO  
DISTRICT JUDGE, and (2) VACATING  
HEARING SET FOR SEPTEMBER 9, 2015  
AT 10:00 A.M. IN DEPARTMENT 9  
(ECF No. 30)

On August 3, 2015, Petitioner filed a motion to equitably toll the 28 U.S.C. § 2244 limitations period for filing his federal habeas petition from November 12, 2015 to February 2, 2016, due to delay in appointing counsel and case complexity. Respondent filed opposition on August 12, 2015. Petitioner's reply, if any, is due not later than September 2, 2015. Local Rule 230(d).

In the interest of judicial economy, the undersigned finds it is more appropriate for District Judge Lawrence O'Neill to address the motion.

Accordingly, it is **HEREBY ORDERED** that:

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

1. The previously scheduled hearing set for September 9, 2015 at 10:0 a.m. before the undersigned is vacated and the parties will not be required to appear at that time,
2. Petitioner's motion for equitable tolling (ECF No. 30) is referred to District Judge Lawrence O'Neill and the parties will be notified by minute order if a hearing is necessary, and
3. Petitioner's reply, if any, shall be filed by not later than September 2, 2015.

IT IS SO ORDERED.

Dated: August 19, 2015



UNITED STATES MAGISTRATE JUDGE