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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANTHONY MCCOY,
Petitioner,
v.
JOHN SOTO,
Respondent.

Case No. 1:15-cv-01578-LJO-EPG-HC

ORDER

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

On January 8, 2016, Respondent filed a motion to dismiss, arguing that the petition was filed outside the one-year limitation period. (ECF No. 13). Petitioner did not file any opposition to the motion to dismiss, and the Court issued a findings and recommendation recommending dismissal of the petition. (ECF No. 15). Petitioner filed objections to the findings and recommendation, arguing that he is entitled to equitable tolling. (ECF No. 16). Construing Petitioner’s objections as a motion for equitable tolling, the Court vacated the findings and recommendation and the parties filed briefs on the issue. (ECF Nos. 17, 18, 25).

In Petitioner’s reply, Petitioner includes more specific factual allegations that were not raised in his objections. (ECF No. 25). For example, Petitioner contends that when he was placed in administrative segregation, prison officials (1) confiscated his legal papers, which have yet to

1 be returned, (2) completely denied access to the prison law library from December 29, 2014 to
2 June 26, 2015, and (3) failed to provide him with paper, envelopes, pens, and copies. “Because
3 determinations of whether there was an ‘impediment’ under § 2244(d)(1)(B) and whether there
4 are grounds for equitable tolling are highly fact-dependent,” Whalem/Hunt v. Early, 233 F.3d
5 1146, 1148 (9th Cir. 2000), further development of the record is warranted.

6 Accordingly, the Court HEREBY ORDERS that within **FORTY-FIVE (45) days** of the
7 date of service of this order, the parties shall submit evidence in support of their arguments
8 regarding whether Petitioner pursued his rights diligently,¹ some extraordinary circumstance
9 prevented timely filing, and a state-created impediment in violation of the Constitution or laws of
10 the United States prevented timely filing.

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12 IT IS SO ORDERED.

13 Dated: January 23, 2017

14 /s/ Eric P. Gray
15 UNITED STATES MAGISTRATE JUDGE

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¹ For example, what steps did Petitioner take before, during, and after his administrative segregation to pursue his federal habeas rights. See Johnson v. Yates, 443 F. App’x 247, 249 (9th Cir. 2011).