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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GAYLE MARIE MEDEIROS,

 Petitioner,

 v.

RON RACKLEY,

 Respondent.

Case No. 1:16-cv-01644-SAB-HC

ORDER GRANTING RESPONDENT’S
REQUEST TO WITHDRAW MOTION TO
DISMISS

ORDER TO RESPOND

ORDER SETTING BRIEFING SCHEDULE

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

On February 1, 2017, Respondent moved to dismiss the petition, arguing that the petition was filed outside the limitations period. (ECF No. 11). Petitioner filed an opposition. (ECF No. 12). On April 7, 2017, Respondent filed the instant request to withdraw the motion to dismiss. Respondent intends to reassert the timeliness defense in an answer that addresses the merits of Petitioner’s claims so that the Court may bypass procedural issues to first address the merits. (ECF No. 20).

Good cause having been presented to the Court, IT IS HEREBY ORDERED THAT:

- 1. Respondent’s Request to Withdraw the Motion to Dismiss (ECF No. 20) is GRANTED;
- 2. Within **SIXTY (60) days** of the date of service of this order, Respondent SHALL FILE AN ANSWER addressing the merits of the Petition. Any argument by

1 Respondent that Petitioner has procedurally defaulted a claim SHALL BE MADE
2 in the ANSWER, but must also address the merits of the claim asserted.

3 3. Within **SIXTY (60) days** of the date of service of this order, Respondent SHALL
4 FILE any and all transcripts or other documents necessary for the resolution of the
5 issues presented in the Petition. See Rule 5(c), Rules Governing Section 2254
6 Cases.

7 4. Petitioner MAY FILE a Traverse within **THIRTY (30) days** of the date
8 Respondent's Answer is filed with the Court. If no Traverse is filed, the Petition
9 and Answer are deemed submitted at the expiration of the thirty days.

10
11 IT IS SO ORDERED.

12
13 Dated: April 10, 2017


UNITED STATES MAGISTRATE JUDGE