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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

DAVID WAYNE LEWIS,  
Petitioner,  
v.  
R.J. RACKLEY,  
Respondent.

Case No. 1:17-cv-00449-DAD-SAB-HC  
ORDER GRANTING IN PART AND  
DENYING IN PART PETITIONER’S  
MOTION TO STRIKE (ECF No. 20)  
ORDER FOR RESPONDENT TO FILE  
REPLY TO PETITIONER’S OPPOSITION  
(ECF No. 19)

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

On June 29, 2017, Respondent filed a motion to dismiss. (ECF No. 12). On July 13, 2017, the Court granted Petitioner to and including August 25, 2017 to file an opposition to the motion to dismiss. (ECF No. 16). On August 14, 2017, Petitioner filed a request for judicial notice, wherein Petitioner requested that the Court take notice of a law review article. (ECF No. 17). Respondent apparently construed the request for judicial notice as Petitioner’s opposition to the motion to dismiss, and filed a reply on August 22, 2017. (ECF No. 18). Subsequently, on August 30, 2017, the Court received Petitioner’s “motion and memorandum of law in support of motion to be excused for cause” and “memorandum of law in opposition to the motion to dismiss.” (ECF No. 19). Therein, Petitioner appears to argue that he is entitled to equitable tolling.

1 On September 13, 2017, Petitioner filed the instant motion to strike Respondent's reply.  
2 (ECF No. 20). Petitioner moves the Court to strike the reply (ECF No. 18) and order Respondent  
3 to file a reply to Petitioner's actual opposition. (ECF No. 20 at 2).

4 The Court finds that a reply to Petitioner's opposition (ECF No. 19) would assist the  
5 Court in light of Petitioner's arguments regarding equitable tolling. Accordingly, the Court  
6 HEREBY ORDERS that:

- 7 1. Petitioner's motion to strike (ECF No. 20) is GRANTED IN PART and DENIED IN  
8 PART;
- 9 2. Petitioner's request that the Court order Respondent to file a reply is GRANTED, and  
10 Respondent shall file a reply to Petitioner's opposition (ECF No. 19) within seven (7)  
11 days of the date of service of this order; and
- 12 3. Petitioner's request to strike Respondent's earlier reply (ECF No. 18) is DENIED.

13 IT IS SO ORDERED.

14 Dated: September 22, 2017

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17 UNITED STATES MAGISTRATE JUDGE