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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10 SACRAMENTO DIVISION
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12 **ED ONTIVEROS,**

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14 Petitioner,

15 **v.**

16 **R. J. SUBIA, Warden,**

17 Respondent.
18

2:07-cv-01441-JAM-DAD (HC)

ORDER

19 On January 29, 2015, this court set an evidentiary hearing in this matter for the sole purpose
20 of determining whether petitioner is entitled to equitable tolling of the statute of limitations.
21 Counsel for respondent has since filed a request to withdraw respondent's pending motion to
22 dismiss the petition as time-barred. Respondent's counsel explains therein that in light of the
23 costs of proceeding with an evidentiary hearing, respondent has elected to withdraw the
24 affirmative defense based on the statute of limitations and, within ten days of the court vacating
25 the evidentiary hearing, respondent's counsel will file an answer addressing the merits of
26 petitioner's sole claim that the Board of Parole Hearings was unconstitutionally biased when it
27 denied petitioner parole.

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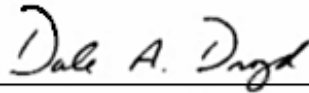
1 Good cause appearing, IT IS HEREBY ORDERED that:

2 1. Respondent's motion to dismiss (Doc. No. 7) is deemed withdrawn;

3 2. The evidentiary hearing set for June 1, 2015, is vacated; and

4 3. Respondent shall file an answer within ten days of the date of this order.

5 Dated: March 16, 2015

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7 DALE A. DROZD

8 UNITED STATES MAGISTRATE JUDGE

9 DAD:9
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