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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LONNIE DAVID STRINGER,  
Petitioner,  
v.  
JOHN MARSHALL,  
Respondent.

No. 2:09-cv-2980-GEB-EFB P

ORDER

Petitioner is a state prisoner with counsel seeking a writ of habeas corpus. *See* 28 U.S.C. § 2254. On March 31, 2011, this court granted respondent’s motion to dismiss the action as barred by the statute of limitations contained in the Anti-terrorism and Effective Death Penalty Act (“AEDPA”). ECF No. 30. Later that year, the U.S. Court of Appeals for the Ninth Circuit concluded that AEDPA’s limitations provisions are subject to an equitable exception for claims of actual innocence. *Lee v. Lampert*, 653 F.3d 929 (9th Cir. 2011) (en banc). The United States Supreme Court agreed in 2013. *McQuiggin v. Perkins*, \_\_\_ U.S. \_\_\_, 133 S. Ct. 1924, 1928, 1933 (2013).

On appeal, the Ninth Circuit affirmed this court’s determinations that: (1) petitioner is not entitled to statutory tolling; (2) the federal statute of limitations began to run when petitioner’s conviction became final; and (3) petitioner is not entitled to equitable tolling. ECF No. 38.

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1 However, because this court did not consider whether petitioner qualified for the equitable  
2 exception based on actual innocence, the Ninth Circuit remanded the case for consideration of  
3 that single issue, citing *McQuiggin. Id.*

4 The court finds it necessary to review the state court record of petitioner's criminal case to  
5 determine whether petitioner has made the necessary showing. Accordingly, within 60 days of  
6 the date of this order, respondent shall lodge the state court record with the court. Rule 5(c), 28  
7 U.S.C. foll. § 2254.

8 So ordered.

9 Dated: April 9, 2014.



EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE

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