

1
2
3
4
5
6
7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 ANDREW L. MACKEY,

11 Petitioner,

No. 2:12-cv-1245 LKK CKD P

12 vs.

13 WARDEN KNIPP,

ORDER

14 Respondent.
15 _____/

16 Petitioner is a state prisoner proceeding pro se and in forma pauperis with an
17 application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. In light of the complexity of
18 the legal issues involved, the court has determined that the interests of justice require
19 appointment of counsel. See 18 U.S.C. § 3006A(a)(2)(B); see also Weygandt v. Look, 718 F.2d
20 952, 954 (9th Cir. 1983).

21 Accordingly, IT IS HEREBY ORDERED that:

22 1. The Federal Defender is appointed to represent petitioner for purposes of
23 opposing the pending motion to dismiss.

24 2. The Clerk of the Court is directed to serve a copy of this order on David Porter,
25 Assistant Federal Defender.

26 \\\

3. Within 60 days of this order, counsel for petitioner shall file an amended opposition to defendant's July 27, 2012 motion to dismiss. The court expects that counsel for petitioner will present evidence concerning petitioner's mental condition in an attempt to establish a basis for equitable tolling of the limitations period applicable to this action. Any such evidence shall be included with petitioner's amended opposition. If counsel for petitioner believes that evidence supporting equitable tolling can only be presented through an evidentiary hearing or that it would be more expedient to present evidence via an evidentiary hearing, counsel for petitioner is free to file a motion for an evidentiary hearing with his amended opposition.

4. Any reply to petitioner's amended opposition shall be filed within 30 days of petitioner's amended opposition.

Dated: January 24, 2013

Carolyn K. Delaney
CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE