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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANDREW L. MACKEY,
Petitioner,
v.
WARDEN KNIPP,
Respondent.

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

ORDER

Petitioner is a California prisoner proceeding with counsel with an application for writ of habeas corpus under 28 U.S.C. § 2254. Respondent has filed a motion to dismiss arguing, among other things, that this action is time-barred. At this point, the court is inclined to proceed by way of evidentiary hearing as to whether petitioner is entitled to equitable tolling of the applicable limitations period due to mental illness. Accordingly, IT IS HEREBY ORDERED that:

1. This matter is set for status conference on January 8, 2014 at 10:00 a.m. before the undersigned.
2. At the status conference, counsel for each party shall: 1) be prepared to discuss whether discovery is necessary prior to an evidentiary hearing regarding whether petitioner is entitled to equitable tolling of the applicable limitations period due to mental illness; and 2) provide the court with acceptable dates for the evidentiary hearing.

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3. If counsel for either party wishes to appear telephonically at the status conference, counsel should contact Court Room Deputy Kyle Owen prior to the conference.

Dated: December 11, 2013



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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