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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JUSTIN STEELE,

 Petitioner,

 v.

JOHN N. KATAVICH, Warden,

 Respondent.

No. 2:15-cv-1836 TLN KJN P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 6, 2016, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Neither party has filed objections to the findings and recommendations.

The Court has reviewed the file and finds equitable tolling shall extend the date for Petitioner to file a petition of habeas corpus, until thirty days past service of the magistrate judge’s September 3, 2015 order (ECF No. 3), on the basis that Petitioner was “affirmatively misled” by the court’s order.¹ See *Sossa v. Diaz*, 729 F.3d 1225, 1231–1235 (9th Cir. 2015).

¹ That order stated in part:

1 Petitioner filed his habeas petition on September 22, 2015. (ECF No. 4; ECF No. 18 at 8.)

2 Therefore, Petitioner's filing was timely. Accordingly, it is hereby ordered that:

3 1. The findings and recommendations filed April 6, 2016 (ECF No. 18), are not adopted;

4 2. Respondent's motion to dismiss (ECF No. 11) is DENIED relative to the grounds that
5 the petition was not timely filed; and

6 3. The matter is referred back to the magistrate judge for consideration of the alternative
7 grounds for dismissal stated in Respondent's motion, which the magistrate judge did not reach.

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9 Dated: May 13, 2016

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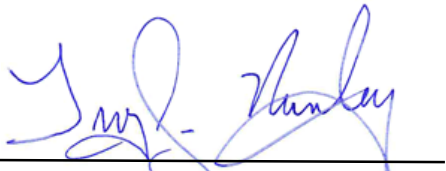
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Troy L. Nunley
United States District Judge

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Within thirty days from the date of service of this order, petitioner shall file a petition that complies with the requirements of the Rules Governing Section 2254 Cases, the Federal Rules of Civil Procedure, and the Local Rules of Practice; the petition must bear the docket number assigned this case; petitioner must file an original and two copies of the petition.

(ECF No. 3 at 2.)