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15 Attorneys for Petitioner
 16 GREGORY CALVIN SMITH

17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA

19 GREGORY CALVIN SMITH,
 20 Petitioner,
 21 v.
 22 ROBERT AYERS, Warden,
 23 San Quentin State Prison,
 24 Respondent.

25 NO. 3:04-cv-03436-CRB
 26 **DEATH PENALTY CASE**

27 **PROPOSED ORDER GRANTING
 28 EQUITABLE TOLLING OF FILING
 DATE FOR PETITION FOR WRIT OF
 HABEAS CORPUS**

29 This court hereby orders that Petitioner GREGORY SMITH be granted a period of
 30 equitable tolling of the limitations period contained in 28 U.S.C. § 2244(d)(1), for 1565
 31 days, to and including November 23, 2009, by which time petitioner shall file his petition
 32 for writ of habeas corpus in this Court.

33 Dated: December 16, 2008

34 
 35 CHARLES R. BREYER
 36 United States District Court Judge