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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RICHARD ALLEN DAVIS,
Petitioner,
v.
KEVIN CHAPPELL, Warden, San Quentin
State Prison,
Respondent.

No. C-13-0408 EMC
DEATH PENALTY CASE
CASE MANAGEMENT ORDER

The Court is in receipt of the parties' Joint Case Management Statement, filed on April 9, 2014. According to the Statement, Petitioner intends to file requests for equitable tolling, evidence preservation and discovery.

Having considered the parties' Statement, the Court directs the parties to proceed as follows:


1. Petitioner shall file separate motions for equitable tolling and evidence preservation within 45 days of the date of this Order;
2. Respondent shall file oppositions within 30 days of the date of filing of Petitioner's motions;
3. Petitioner shall file replies within 14 days of the date of filing of Respondent's oppositions.
4. The Court denies without prejudice Petitioner's request to file a discovery motion at this time. In requesting equitable tolling, Petitioner will be seeking to replace the petition currently on file with a finalized petition. As such, unless exigent circumstances exist, any request for discovery would be premature. *See Calderon v.*

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United States District Ct. for N. Dist. of Cal. (Nicolaus), 98 F.3d 1102 (9th Cir. 1996) (pre-petition discovery is impermissible); *see also Calderon v. United States District Ct. for E. Dist. of Cal. (Roberts)*, 113 F.3d 149 (9th Cir. 1997) (discovery inappropriate where a federal petition contains unexhausted claims not yet dismissed or pursued in state court).

IT IS SO ORDERED.

Dated: April 15, 2014



EDWARD M. CHEN
United States District Judge