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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HENRY PAUL INOCENCIO,

Petitioner,

No. C 10-2334 PJH

v.

**ORDER FOR BRIEFING RE
TIMELINESS OF PETITION**

ANTHONY HEDGPATH, Warden,

Respondent.

_____ /

Petitioner Henry Paul Inocencio (“Inocencio”), a California prisoner, filed a federal habeas petition on May 27, 2010. On November 8, 2010, the state filed a motion to dismiss Inocencio’s petition as mixed, containing both exhausted and unexhausted claims. Inocencio filed an opposition, the state filed a reply, and the motion was fully briefed on December 6, 2010. On September 27, 2011, the case was reassigned from the Honorable Jeremy Fogel to the undersigned judge, and on September 29, 2011, the court denied the state’s motion to dismiss and set a briefing schedule on the petition.

On November 9, 2011, the state filed its answer. Inocencio’s traverse was due December 9, 2011, but he failed to file one.

Having reviewed the state’s answer, the court notes that the state now moves to dismiss Inocencio’s petition on timeliness grounds as well, grounds that were not included in the state’s prior motion to dismiss. The court finds it necessary to adjudicate the timeliness issue prior to addressing the merits of Inocencio’s petition, and thus a response

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from Inocencio is warranted. Accordingly, Inocencio is ORDERED to file a response to the state's request to dismiss the petition as untimely **no later than Friday, April 27, 2012.** The state may file a reply **no later than Friday, May 11, 2012.**

IT IS SO ORDERED.

Dated: April 5, 2012



PHYLLIS J. HAMILTON
United States District Judge