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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C 11-1908 CW

ARMANDO TRUJILLO,
Petitioner,

v.

RANDY GROUNDS, Warden.
Respondent.

ORDER GRANTING
PETITIONER'S MOTION TO
EXPAND THE RECORD AND
SETTING BRIEFING
SCHEDULE

_____ /

Petitioner, a state prisoner, filed the present petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging the legality of his conviction. Respondent filed a motion to dismiss the petition as barred by the one-year statute of limitations applicable to federal habeas corpus petitions. See 28 U.S.C. § 2244(d). Petitioner, at that time proceeding pro se, filed an opposition, in which he appeared to argue that he is entitled to equitable tolling of the limitations period because he was abandoned by the attorney he retained to file a timely petition. The Court found that discovery, expansion of the record, or an evidentiary hearing would be necessary to develop the factual record on the issue and exercised its discretion to appoint counsel for the sole purpose of representing Petitioner in connection with his claim he is entitled to equitable tolling.

The Court also denied Respondent's motion to dismiss without prejudice and ordered the parties to meet and confer regarding a briefing schedule. Respondent stated that he did not "have a need or desire to expand the record." Docket No. 27. Petitioner has

1 now filed a motion to expand the record and a memorandum in
2 support of his claim that he is entitled to equitable tolling.
3 Respondent has not filed an opposition to the motion.

4 Having considered the parties' papers and the record in this
5 case, the Court GRANTS Petitioner's motion to expand the record
6 (Docket No. 31). Within thirty days of the date of this order,
7 Respondent shall inform Petitioner and the Court whether he renews
8 his motion to dismiss the petition. If he renews the motion to
9 dismiss, Respondent shall also file a brief addressing
10 Petitioner's additional declarations and materials and his
11 memorandum in support of his claim that he is entitled to
12 equitable tolling. Petitioner may file a reply brief within 15
13 days thereafter. If Respondent does not renew his motion to
14 dismiss, he shall file an answer to the petition within sixty days
15 of the date of this order and Petitioner may file a traverse
16 within thirty days thereafter. Petitioner is advised that, if
17 Respondent answers the petition, he will be responsible for filing
18 his traverse pro se because counsel was only appointed to assist
19 him with his claim that he is entitled to equitable tolling.

20 IT IS SO ORDERED.

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22 Dated: 8/18/2014

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CLAUDIA WILKEN
United States District Judge