

APR 21 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

THOMAS RICHARD BAUGH,

Petitioner - Appellant,

v.

PEOPLE OF THE STATE OF  
CALIFORNIA; et al.,

Respondents - Appellees.

No. 07-55389

D.C. No. CV-06-00493-JSL

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
J. Spencer Letts, District Judge, Presiding

Submitted April 13, 2009\*\*

Before: GRABER, GOULD and BEA, Circuit Judges.

California state prisoner Thomas Richard Baugh appeals from the district court's judgment dismissing as untimely his 28 U.S.C. § 2254 petition. We have

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

jurisdiction pursuant to 28 U.S.C. §§ 1291 and 2253, and we affirm.

Baugh contends that he is entitled to equitable tolling of the statute of limitations because he was deprived of access to his legal materials for a period of 40-60 days, suffered from mental illness, and lacked legal knowledge. To establish a claim for equitable tolling, Baugh must show “(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way.” *See Pace v. DiGuglielmo*, 544 U.S. 408, 418 (2005). Baugh has not shown that these alleged extraordinary circumstances were the proximate cause of his delay in filing the federal habeas petition. *See Espinoza-Matthews v. California*, 432 F.3d 1021, 1026 (9th Cir. 2005). Additionally, Baugh has not shown the requisite diligence in pursuing his habeas claims. *See Pace*, 544 U.S. at 418.

Baugh’s motion to broaden the certificate of appealability is denied. *See Hiivala v. Wood*, 195 F.3d 1098, 1104 (9th Cir. 1999) (per curiam).

**AFFIRMED.**