

JUL 23 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ERIC JAY HOLDEN,

Petitioner - Appellant,

v.

DAVID W. MARQUEZ,

Respondent - Appellee.

No. 07-35455

D.C. No. CV-06-00093-TMB

MEMORANDUM*

Appeal from the United States District Court
for the District of Alaska
Timothy M. Burgess, District Judge, Presiding

Submitted July 14, 2009**

Before: SCHROEDER, THOMAS, and WARDLAW, Circuit Judges.

Alaska state prisoner Eric Jay Holden appeals from the district court's judgment dismissing his 28 U.S.C. § 2254 petition as untimely. We have

* 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. § 2253, and we affirm.

Holden contends that his federal petition was timely because Alaska's post-conviction procedures for reviewing ineffective assistance of counsel claims are in effect a form of "direct review," *see* 28 U.S.C. § 2244(d)(1)(A), and therefore the one-year limitations period should not have commenced until the conclusion of those proceedings. This contention lacks merit. *See, e.g., Ferguson v. Palmateer*, 321 F.3d 820, 823 (9th Cir. 2003); *cf. Summers v. Schriro*, 481 F.3d 710, 716-17 (9th Cir. 2007).

We construe Holden's briefing of uncertified issues as a motion to expand the certificate of appealability, and we deny the motion. *See* 9th Cir. R. 22-1(e); *see also Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (per curiam).

AFFIRMED.