

AUG 19 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>KEITH RENFROW,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>DERRAL G. ADAMS,</p> <p>Respondent - Appellee.</p>
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No. 07-55159

D.C. No. CV-05-08720-CAS

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Christina A. Snyder, District Judge, Presiding

Submitted August 11, 2009\*\*

Before: KLEINFELD, M. SMITH, and IKUTA, Circuit Judges.

California state prisoner Keith Renfrow appeals pro se from the district court's order dismissing his 28 U.S.C. § 2254 habeas petition as untimely. We have jurisdiction under 28 U.S.C. § 2253, and we affirm.

\* 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).

Assuming that a certificate of appealability is required, we construe the argument as a motion for a certificate of appealability, and we grant the motion. *See* 9th Cir. Rule 22-1; *see also* *Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (per curiam).

Renfrow contends that the district court erred in denying him equitable tolling for the time period that he lacked access to his parole hearing transcript. The record reflects that the district court did not err because Renfrow has not demonstrated that his lack of access to the transcript caused his untimeliness. *See Allen v. Lewis*, 255 F.3d 798, 800-01 (9th Cir. 2001) (per curiam); *see also Waldron-Ramsey v. Pacholke*, 556 F.3d 1008, 1013-14 (9th Cir. 2009).

The State's motion to strike specified portions of the record is denied.

**AFFIRMED.**