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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>FERNANDO R. JIMENEZ,</p> <p style="text-align: center;">Petitioner - Appellant,</p> <p>v.</p> <p>DIRECTOR, NEVADA DEPARTMENT OF CORRECTIONS; et al.,</p> <p style="text-align: center;">Respondents - Appellees.</p>

No. 07-16916

D.C. No. CV-06-00500-RCJ

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Robert Clive Jones, District Judge, Presiding

Submitted February 16, 2010**

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Nevada state prisoner Fernando R. Jimenez appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2254 habeas petition as untimely. We

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

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

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

Jimenez contends that the district court erred by dismissing his habeas petition as untimely because he was entitled to statutory tolling following the conclusion of the formal administrative review process in which he sought additional sentencing credits. This argument lacks merit. *See Redd v. McGrath*, 343 F. 3d 1077, 1082 (9th Cir. 2003).

Alternatively, Jimenez contends that he is entitled to equitable tolling because he was engaged in settlement efforts with the former director of the Nevada Department of Corrections and the Nevada Attorney General's office. The district court did not err in determining that Jimenez failed to demonstrate that extraordinary circumstances made it impossible for him to file a timely habeas petition. *See Shannon v. Newland*, 410 F.3d 1083, 1089-90 (9th Cir. 2005).

To the extent that Jimenez claims that the district court should have conducted an evidentiary hearing regarding his claims, the record reflects that the district court did not err in this regard. *See Schriro v. Landrigan*, 550 U.S. 465, 474-75 (2007).

All pending motions are denied as moot.

AFFIRMED.