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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DANTO PALOMINO,

Petitioner - Appellant,

v.

JOHN MARSHALL,

Respondent - Appellee.

No. 08-55065

D.C. No. 07-cv-04769-DOC

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
David O. Carter, District Judge, Presiding

Submitted February 16, 2010**

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

California state prisoner Danto Palomino appeals from the district court's judgment dismissing his 28 U.S.C. § 2254 habeas 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 concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). Accordingly, Palomino's request for oral argument is denied.

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

Palomino contends he is entitled to statutory tolling for the time that elapsed between the denial of his habeas petition in the Los Angeles Superior Court and the filing of his habeas petition in the California Court of Appeal. This contention lacks merit. *See Evans v. Chavis*, 546 U.S. 189, 201 (2006); *Chaffer v. Prosper*, No. 07-16853, 2010 WL 157488, at *1 (9th Cir. Jan. 19, 2010) (per curiam) (filing gaps of 101 and 115 days not subject to statutory tolling).

Palomino also contends he is entitled to equitable tolling because “prison workers did not let [him] write the court.” This bare allegation fails to satisfy the standard required for such extraordinary relief. *See Chaffer*, 2010 WL 157488, at *2. To the extent that Palomino contends he is entitled to an evidentiary hearing on this issue, this contention lacks merit. *See Tapia v. Roe*, 189 F.3d 1052, 1056 (9th Cir. 1999).

AFFIRMED.