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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MICHAEL THOMAS,

Petitioner - Appellant,

v.

JAMES YATES; JERRY BROWN,
Attorney General of the State of
California,

Respondents - Appellees.

No. 09-15145

D.C. No. 2:08-cv-00095-FCD

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Frank C. Damrell, District Judge, Presiding

Submitted February 16, 2010**

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

* 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).

California state prisoner Michael Thomas appeals from the district court's order dismissing his 28 U.S.C. § 2254 habeas petition as untimely. We have jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

Thomas contends that several extraordinary circumstances prevented his timely filing of a federal habeas petition and that equitable tolling was warranted. The district court did not err when it concluded that Thomas was not entitled to equitable tolling. *See Pace v. DiGuglielmo*, 544 U.S. 408, 418 (2005); *see also Gaston v. Palmer*, 417 F.3d 1030, 1034-35 (9th Cir. 2005), *modified on other grounds by* 447 F.3d 1165 (9th Cir. 2006) (requiring showing of causal connection between alleged "extraordinary circumstance" and inability to file timely federal habeas petition). Nor did the district court abuse its discretion when it declined to hold a hearing to determine whether Thomas was entitled to equitable tolling. *See Roy v. Lampert*, 465 F.3d 964, 969-70 (9th Cir. 2006).

AFFIRMED.