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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ALEXEY POPOV,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>JOHN MARSHALL,</p> <p>Respondent - Appellee.</p>

No. 07-15464

D.C. No. CV-06-00409-OWW

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Oliver W. Wanger, District Judge, Presiding

Submitted February 16, 2010**

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

California state prisoner Alexey Popov appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2254 habeas petition as untimely. We have jurisdiction pursuant to 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 concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Popov contends that he is entitled to equitable tolling of the one-year statute of limitations set forth in 28 U.S.C. § 2244(d), because the two transfers and the lockdowns that took place during his incarceration constitute extraordinary circumstances that made it impossible for him to timely file his federal habeas petition. We agree with the district court that Popov failed to demonstrate either that these impediments made it impossible for him to file a timely federal habeas petition, or that he diligently pursued his rights. *See Hughes v. Idaho State Bd. of Corrections*, 800 F.2d 905, 909 (9th Cir. 1986); *Pace v. DiGuglielmo*, 544 U.S. 408, 418 (2005).

AFFIRMED.