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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

STEVEN ROBERT SLOAN,

Petitioner - Appellant,

v.

ROSANNE CAMPBELL, Warden,

Respondent - Appellee.

No. 08-16568

D.C. No. 1:05-cv-01467-AWI

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Anthony W. Ishii, Chief Judge, Presiding

Submitted May 25, 2010**

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

California state prisoner Steven Robert Sloan appeals pro se from the district court's judgment 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 concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

The issues certified for appeal were whether the district court correctly determined the filing date of Sloan’s federal habeas petition under the prison mailbox rule and whether it correctly concluded that the habeas petition was untimely. The district court properly weighed the evidence concerning the filing date of Sloan’s federal habeas petition and did not err in concluding that the petition was untimely. *See* 28 U.S.C. § 2244(d)(1); *Houston v. Lack*, 487 U.S. 266, 275-76 (1988); *see also Huizar v. Carey*, 273 F.3d 1220, 1224 (9th Cir. 2001) (prison’s log of outgoing mail provides “strong evidence” of the date a petitioner handed over his habeas petition to prison officials for mailing to the district court).

We construe Sloan’s additional arguments as a motion to expand the certificate of appealability. So construed, the motion is denied. *See* 9th Cir. R. 22-1(e); *see also Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (per curiam).

AFFIRMED.