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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>PHALLON LEON HARRIS,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>ANTHONY HEDGPETH,</p> <p>Respondent - Appellee.</p>

No. 08-17745

D.C. No. 2:07-cv-00212-JAM

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
John A. Mendez, District Judge, Presiding

Submitted June 29, 2010**

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

California state prisoner Phallon Leon Harris 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).

Harris contends that he is entitled to statutory or equitable tolling because a series of lockdowns impeded his access to the prison law library. This contention fails because Harris has not demonstrated that an impediment or extraordinary circumstance prevented him from timely filing his habeas petition, or that he diligently pursued his rights. *See Ramirez v. Yates*, 571 F.3d 993, 998 (9th Cir. 2009); *see also Bryant v. Schriro*, 499 F.3d 1056, 1060 (9th Cir. 2007). Harris' contention that he is entitled to an evidentiary hearing on the issue of tolling also fails. *See Tapia v. Roe*, 189 F.3d 1052, 1058 (9th Cir. 1999).

We construe Harris' briefing of uncertified issues 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.