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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MICHAEL DEWAYNE HAYNES,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>JOHN W. HAVILAND,</p> <p>Respondent - Appellee.</p>
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No. 08-17755

D.C. No. 2:06-cv-02767-LKK-DAD

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence K. Karlton, District Judge, Presiding

Submitted May 24, 2011**

Before: PREGERSON, THOMAS, and PAEZ, Circuit Judges.

California state prisoner Michael Dewayne Haynes appeals 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.

The district court dismissed the petition because Haynes did not offer a

* 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).

persuasive explanation for the 18-month delay between his state habeas filings. In his opening brief, Haynes argues the petition should not have been dismissed because California's timeliness rule is not an independent and adequate state procedural rule. That contention is foreclosed by *Walker v. Martin*, 131 S. Ct. 1120, 1128-31 (2011).

We do not consider matters not specifically and distinctly raised and argued in the opening brief. *See Koerner v. Grigas*, 328 F.3d 1039, 1048 (9th Cir. 2003).

AFFIRMED.