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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BRUCE ELLIS JOHNSON,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>M. MARTEL, Warden,</p> <p>Respondent - Appellee.</p>
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No. 11-15673

D.C. No. 2:10-cv-00178-WBS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, District Judge, Presiding

Submitted February 21, 2012**

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

California state prisoner Bruce Ellis Johnson 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).

Johnson contends that he is entitled to equitable tolling because he was not properly advised about AEDPA and its deadlines, his attorney withheld his legal file, and he did not have knowledge of the denial of his state habeas petition. Equitable tolling is not warranted because Johnson has not shown that any of these circumstances caused the untimely filing of his federal habeas petition. *See Ramirez v. Yates*, 571 F.3d 993, 997 (9th Cir. 2009).

We construe Johnson'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); *Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (per curiam).

AFFIRMED.