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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GREGORY DIXON,
a.k.a. Greg Jerome Dixon,

Petitioner - Appellant,

v.

ROBERT L. AYERS, Jr., Warden,

Respondent - Appellee.

No. 09-56242

D.C. No. 2:08-cv-07189-SGL

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Stephen G. Larson, District Judge, Presiding

Submitted June 26, 2012**

Before: SCHROEDER, HAWKINS, and GOULD, Circuit Judges.

California state prisoner Gregory Dixon 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 vacate and remand.

* 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).

Dixon contends that he is entitled to equitable tolling of AEDPA's statute of limitations through September 2007 due to schizophrenia that prevented him from timely filing a federal habeas petition. The uncontested evidence that Dixon submitted in the district court was sufficient to support the inference that his mental illness was severe and continued throughout the limitations period, so as to entitle him to an evidentiary hearing to determine his entitlement to equitable tolling. *See Bills v. Clark*, 628 F.3d 1092, 1100 (9th Cir. 2010); *Laws v. Lamarque*, 351 F.3d 919, 924 (9th Cir. 2003). The evidence further suggested that Dixon acted with diligence in pursuing his legal remedies once the burden of mental illness was lifted. *See Bills*, 628 F.3d at 1100-01. Accordingly, we remand for an evidentiary hearing.

VACATED and REMANDED.