

FEB 22 2013

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DENNIS RAY BARNETT,

Petitioner - Appellant,

v.

VIMAL SINGH, Warden,

Respondent - Appellee,

and

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION; CALIFORNIA
MEDICAL FACILITY, at Solano County,

Respondents.

No. 10-15867

D.C. No. 5:08-cv-01604-RMW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Ronald M. Whyte, Senior District Judge, Presiding

Argued and Submitted February 11, 2013
San Francisco, California

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

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Petitioner Dennis Ray Barnett appeals the district court's dismissal of his habeas corpus petition challenging his conviction for robbery and assault with a deadly weapon. The district court dismissed the petition as untimely because it was filed more than a year after the expiration of the state court proceedings. The district court rejected Barnett's contentions that he was entitled to equitable tolling due to his mental illness, cognitive deficits, and inability to obtain legal materials from his attorney despite alleged diligent efforts.

After the district court decided his case, this court issued its opinion in *Bills v. Clark*, 628 F.3d 1092 (9th Cir. 2010). In *Bills*, we announced a framework for analyzing equitable tolling claims asserted on grounds similar to those advanced by Barnett. That inquiry is fact specific and contemplates a broader inquiry into the relationship between the petitioner's mental problems and the failure to timely file the habeas petition. We therefore vacate the judgment and remand the case to the district court for consideration under the *Bills* framework.

VACATED and REMANDED.