

SEP 30 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>ROXANNE CORINNE PERDIGONE,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>RON DAVIS,</p> <p>Respondent - Appellee.</p> |
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No. 12-17650

D.C. No. 2:11-cv-03454-WBS

MEMORANDUM\*

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

Submitted September 23, 2014\*\*

Before: W. FLETCHER, RAWLINSON, and CHRISTEN, Circuit Judges.

California state prisoner Roxanne Corinne Perdigone appeals from the district court’s judgment dismissing her 28 U.S.C. § 2254 petition as untimely. We have jurisdiction under 28 U.S.C. § 2253. We review de novo a district court’s dismissal of a federal habeas petition on statute of limitations grounds, *see*

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\* 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).

*Mendoza v. Carey*, 449 F.3d 1065, 1068 (9th Cir. 2006), and we affirm.

Perdigone contends that she is entitled to equitable tolling because of the unavailability of two witnesses and because her incarceration made it difficult for her to complete her investigation until February 9, 2010. Perdigone has not shown that she diligently pursued her rights, or that an extraordinary circumstance beyond her control prevented her from timely filing her habeas petition. *See Holland v. Florida*, 560 U.S. 631, 649 (2010); *Chaffer v. Prosper*, 592 F.3d 1046, 1048 (9th Cir. 2010) (per curiam) (petitioner bears the “heavy burden” of showing that she diligently pursued her rights and that an extraordinary circumstance stood in her way).

We construe Perdigone’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.**