

SEP 30 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SAAHDI COLEMAN,

Petitioner - Appellant,

v.

DERRAL G. ADAMS, Warden and
ATTORNEY GENERAL OF THE STATE
OF CALIFORNIA,

Respondents - Appellees.

No. 09-15390

D.C. No. 2:07-cv-00136-FCD

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Frank C. Damrell, District Judge, Presiding

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

California state prisoner Saahdi Coleman appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2254 habeas petition as untimely. We

* 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).

have jurisdiction under 28 U.S.C. § 2253. We review de novo, *Chaffer v. Prosper*, 592 F.3d 1046, 1048 (9th Cir. 2010) (per curiam), and we affirm.

Coleman contends the district court erred by determining that he was not entitled to statutory or equitable tolling for the period between the California Court of Appeal's denial of his habeas petition and the filing of his habeas petition with the California Supreme Court. The district court did not err because Coleman's 179-day delay in filing was unreasonable, *see Chaffer*, 593 F.3d at 1048, and he failed to demonstrate extraordinary circumstances that made it impossible for him to file on time, *see id.* at 1048-49.

We construe Coleman's briefing of uncertified issues as a motion to expand the certificate of appealability. So construed, the motion is denied. *See* 9th Cir. R. 22-1(e); *see also Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (per curiam).

AFFIRMED.