

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff-Respondent

v.

DANIEL JOSEPH DALTON,

Defendant-Movant.

Case No. 4:15-cv-00275-BLW
4:13-cr-00187-BLW

**MEMORANDUM DECISION AND
ORDER**

The Court has before it Daniel Joseph Dalton's ("Movant") Motion Pursuant to 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence (Civ. Dkt. 1). Motions filed pursuant to 28 U.S.C. § 2255 must be filed within one year of "the date on which the judgment of conviction becomes final." 28 U.S.C. § 2255(f)(1). In a case such as the present one, where there was no direct appeal, a judgment of conviction becomes final 14 days after the district court enters judgment. *See United States v. Schwartz*, 274 F.3d 1220, 1223 (9th Cir. 2001).

Judgment was entered against Movant on May 22, 2014. Therefore, his conviction became final on June 5, 2014, and the deadline for filing a § 2255 motion became June 5, 2015. Movant, however, did not file his § 2255 Motion until July 20, 2015, approximately six weeks after the deadline had passed.

MEMORANDUM DECISION AND ORDER - 1

Movant is hereby notified that his Motion under 28 U.S.C. § 2255 will be subject to dismissal unless he shows cause, within thirty days of the date this Order is entered, why his Motion should not be dismissed as untimely. In particular, Movant is advised that his Motion will be dismissed unless he presents to the Court evidence that he has diligently pursued his rights and extraordinary circumstances preventing timely filing existed. *See United States v. Aguirre-Ganceda*, 592 F.3d 1043, 1045 (9th Cir. 2010) (citing *Pace v. DiGuglielmo*, 544 U.S. 408, 418 (2005)). Only if he presents such evidence may the Court toll the one-year limitation period. *Id.* Movant should be aware, however, that “the threshold necessary to trigger equitable tolling ... is very high.” *Id.* (citing *Mendoza v. Carey*, 449 F.3d 1065, 1068 (9th Cir. 2006)).

ORDER

NOW THEREFORE IT IS HEREBY ORDERED that Movant’s Motion pursuant to 28 U.S.C. § 2255 will be dismissed unless he shows cause, within 30 days of the date this Order is entered, why his Motion should not be dismissed as untimely.



DATED: August 27, 2015

A handwritten signature in black ink that reads "B. Lynn Winmill". The signature is written in a cursive style and is positioned above a horizontal line.

B. Lynn Winmill
Chief Judge
United States District Court