

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 09-3486

Keith D. Robinson, *
 *
 Appellant, * Appeal from the United States
 * District Court for the Western
 v. * District of Missouri.
 *
 Builders Choice Concrete Company, * [UNPUBLISHED]
 *
 Appellee. *

Submitted: May 7, 2010
Filed: May 10, 2010

Before MELLOY, BOWMAN, and SMITH, Circuit Judges.

PER CURIAM.

Keith Robinson appeals from the order of the District Court¹ dismissing his Title VII complaint as untimely. Upon careful de novo review, see Thorn v. Amalgamated Transit Union, 305 F.3d 826, 832 (8th Cir. 2002), we agree with the District Court that Robinson’s complaint was untimely, see Williams v. Thomson Corp., 383 F.3d 789, 790 (8th Cir. 2004) (per curiam) (noting that Title VII plaintiff must file federal suit within ninety days of issuance of right-to-sue letter), cert. denied 544 U.S. 951 (2005). Further, equitable tolling was not warranted in this case. See

¹The Honorable Ortrie D. Smith, United States District Judge for the Western District of Missouri.

Baldwin County Welcome Ctr. v. Brown, 466 U.S. 147, 151 (1984) (per curiam) (holding that plaintiff “who fails to act diligently cannot invoke equitable principles to excuse that lack of diligence”); Perry v. Sony Music, 462 F. Supp. 2d 518, 520 (S.D.N.Y. 2006) (holding that incarceration is not sufficient by itself to support equitable tolling in Title VII suit); cf. Kreutzer v. Bowersox, 231 F.3d 460, 463 (8th Cir. 2000) (“Equitable tolling is proper only when extraordinary circumstances beyond a prisoner’s control make it impossible to file a [habeas corpus] petition on time.”).

Accordingly, we affirm.
