

NOV 19 2015

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

## NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MAXIMILLIANO CISNEROS,

Petitioner - Appellant,

v.

RENEE BAKER; NEVADA ATTORNEY  
GENERAL,

Respondents - Appellees.

No. 14-16839

D.C. No. 3:13-cv-00033-MMD-  
VPC

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Miranda M. Du, District Judge, PresidingSubmitted November 17, 2015\*\*  
San Francisco, California

Before: THOMAS, Chief Judge and IKUTA and HURWITZ, Circuit Judges.

Cisneros appeals the district court's determination that he was not entitled to equitable tolling of the statute of limitations applicable to his federal habeas petition, *see* 28 U.S.C. § 2244(d), and its dismissal of the petition. We affirm. The

---

\* 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).

district court did not err in concluding that Cisneros's attorney's miscalculation of the filing deadline was the sort of garden variety negligence that does not entitle a petitioner to equitable tolling. *See Holland v. Florida*, 560 U.S. 631, 651–52 (2010); *Miranda v. Castro*, 292 F.3d 1063, 1067–68 (9th Cir. 2002); *Frye v. Hickman*, 273 F.3d 1144, 1146 (9th Cir. 2001).

**AFFIRMED.**