

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

TONY DEANGLO JOYCE, #192555,	)	
	)	
Petitioner,	)	
	)	
vs.	)	CIVIL ACTION NO. 2:02cv1321-WHA
	)	
GRANT CULLIVER, et al.,	)	(WO)
	)	
Respondents.	)	

**ORDER**

This case is before the court on the Recommendation of the Magistrate Judge (Doc. #26), and Petitioner's Objection thereto (Doc. #27).

The Petitioner's contentions lack merit. He seeks to extend the equitable tolling period because he did not have his trial transcripts or legal papers and because another inmate took his legal papers from him. Even assuming the truth of these contentions, they do not rise to the level of extraordinary circumstances necessary for equitable tolling. Equitable tolling is appropriate when a prisoner's § 2255 petition is untimely because of extraordinary circumstances that are both beyond his control and unavoidable even with diligence. *Drew v. Dep't of Corr.*, 297 F.3d 1278, 1286 (11th Cir. 2002). Therefore, it is hereby ORDERED as follows:

1. Petitioner's objection is OVERRULED.
2. The court ADOPTS the Recommendation of the Magistrate Judge, and the Petitioner's *Fed.R.Civ.P. 60(b)* motion is DENIED.
3. Final judgment will be entered accordingly.

DONE this 4th day May, 2011.

/s/ W. Harold Albritton  
W. HAROLD ALBRITTON  
SENIOR UNITED STATES DISTRICT JUDGE