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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Albert Lee Johnson,)
)
) Petitioner,)
 vs.)
)
 Charles L. Ryan, et al.,)
)
) Respondents.)
_____)

No. CV-08-0231-PHX-PGR (JCG)

ORDER

Having reviewed *de novo* the Report and Recommendation of Magistrate Judge Guerin in light of the petitioner’s Motion Objecting to the Magistrate Judge Report and Recommendation (doc. #24), the Court finds that it cannot reach the merits of the petitioner’s habeas petition, filed pursuant to 28 U.S.C. § 2254, because the petition was filed after the expiration of the AEDPA’s one-year statute of limitations.

The Court agrees with the Magistrate Judge that the habeas petition, which the petitioner signed on February 1, 2008 and which was received by the Court on February 4, 2008, is time-barred because AEDPA’s limitations period expired on March 26, 2005.

Notwithstanding the petitioner’s contention that the limitations period should be either statutorily or equitably tolled because he is a *pro se*

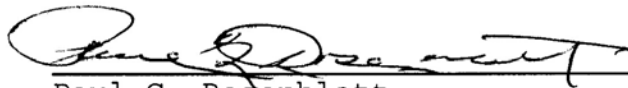
1 litigant who lacked adequate access to a law library or a prison paralegal while he
2 was housed in a segregation unit, the Court agrees with the Magistrate Judge
3 that no tolling is available because the petitioner has not demonstrated that the
4 alleged inadequacies of the prison legal system made it impossible for him to
5 timely file his federal habeas petition. Therefore,

6 IT IS ORDERED that the Magistrate Judge's Report and Recommendation
7 (doc. #23) is accepted and adopted by the Court.

8 IT IS FURTHER ORDERED that the petitioner's Petition Under 28 U.S.C.
9 § 2254 for a Writ of Habeas Corpus by a Person in State Custody is denied as
10 time-barred and that this action is dismissed with prejudice. The Clerk fo the
11 Court shall enter judgment accordingly.

12 IT IS FURTHER ORDERED that no certificate of appealability shall issue.

13 DATED this 20th day of January, 2010.

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17 Paul G. Rosenblatt
18 United States District Judge
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