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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Derek C. Watkins,)	
)	
Petitioner,)	No. CV-09-1967-PHX-PGR (DKD)
)	
vs.)	
)	
Charles L. Ryan, et al.,)	<u>ORDER</u>
)	
Respondents.)	

Having reviewed *de novo* the Report and Recommendation of Magistrate Judge Duncan notwithstanding that no party has filed any objections to the Report and Recommendation, the Court finds that the Magistrate Judge correctly concluded that the petitioner’s habeas corpus petition, filed pursuant to 28 U.S.C. § 2254, should be denied as time-barred as it was filed, at the very least under any calculation of possible statutory tolling, more than four years after the expiration of the one-year limitations period of the AEDPA. The Court further agrees with the Magistrate Judge that the petitioner is not entitled to have the limitations period equitably tolled because he has not shown that he pursued his rights with reasonable diligence or that some extraordinary circumstance stood in his way and prevented the timely filing of his federal habeas petition. Holland v.

1 Florida, __ U.S. __, __ S.Ct. __, 2010 WL 2346549, at *12 (June 14, 2010).¹

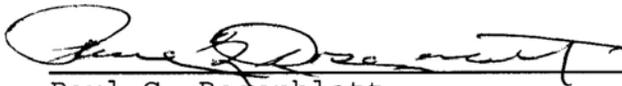
2 Therefore,

3 IT IS ORDERED that the Magistrate Judge's Report and Recommendation
4 (Doc. 13) is accepted and adopted by the Court.

5 IT IS FURTHER ORDERED that the petitioner's Petition Under 28 U.S.C.
6 § 2254 for a Writ of Habeas Corpus by a Person in State Custody is denied as
7 time-barred and that this action is dismissed with prejudice. The Clerk of the
8 Court shall enter judgment accordingly.

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

10 DATED this 14th day of July, 2010.

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13 Paul G. Rosenblatt
14 United States District Judge
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25 The Court notes that it delayed the issuance of this Order pending the
26 Supreme Court's decision in Holland v. Florida given that the main issue to be
decided by the Supreme Court in that case was whether the AEDPA's limitations
period was subject to the doctrine of equitable tolling.