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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Royston Joe Tom,  
Petitioner,  
v.  
Charles Ryan, *et al.*,  
Respondents.

No. CV-17-02731-PHX-JJT (ESW)  
**ORDER**

At issue is the Report and Recommendation (“R&R”) (Doc. 11) submitted by United States Magistrate Judge Eileen S. Willett recommending that the Court deny and dismiss the Petition under 28 U.S.C. 2254 for a Writ of Habeas Corpus (Doc. 1) as untimely. Petitioner had fourteen days from the entry of the R&R to file any objections thereto. He filed none and the time to do so elapsed more than ten months ago. The Court therefore may accept the R&R and its recommendations without further review. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). The Court nonetheless reviewed the petition on its merits, and in doing so, confirms that Judge Willett’s analysis and conclusions are correct.

Petitioner’s conviction became final for purposes of habeas review June 1, 2016. Thereafter he had one year, or until June 1, 2017, to file a petition. He did not file his Petition until August 11, 2017—six weeks late. Petitioner failed to satisfy the requirements of equitable tolling and did not raise allegations of actual innocence for purposes of *Schlup* gateway analysis. His Petition is therefore untimely without cognizable excuse.

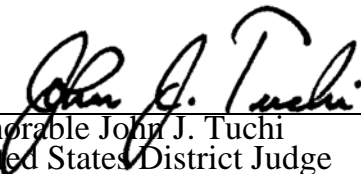
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IT IS ORDERED adopting in whole the R&R issued by Judge Willett (Doc. 11) and denying and dismissing as untimely the Petition under 28 U.S.C. 2254 for a Writ of Habeas Corpus (Doc. 1).

IT IS FURTHER ORDERED denying a certificate of appealability and leave to proceed on appeal in forma pauperis. Dismissal of this action is justified by a plain procedural bar.

Dated this 24th day of June, 2019.

  
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Honorable John J. Tuchi  
United States District Judge