

1 are common to many, if not most, prisoners, and do not constitute “extraordinary
2 circumstances” warranting equitable tolling.

3 The Ninth Circuit instructs that “a pro se petitioner’s lack of legal sophistication is
4 not, by itself, an extraordinary circumstance warranting equitable tolling.” *Rasberry v.*
5 *Garcia*, 448 F.3d 1150, 1154 (9th Cir. 2006); *see also Ford v. Pliler*, 590 F.3d 782, 789
6 (9th Cir. 2009) (equitable tolling “standard has never been satisfied by a petitioner’s
7 confusion or ignorance of the law alone”); *Waldron-Ramsey v. Pacholke*, 556 F.3d 1008,
8 1013 n.4 (9th Cir. 2009) (“[A] pro se petitioner’s confusion or ignorance of the law is not,
9 itself, a circumstance warranting equitable tolling.”). Furthermore, ordinary prison
10 limitations on law library access do not warrant equitable tolling. *See Ramirez v. Yates*,
11 571 F.3d 993, 998 (9th Cir. 2009) (“Ordinary prison limitations on Ramirez’s access to
12 the law library and copier . . . were neither ‘extraordinary’ nor made it ‘impossible’ for
13 him to file his petition in a timely manner.”); *Frye v. Hickman*, 273 F.3d 1144, 1146 (9th
14 Cir. 2001) (recognizing that lack of access to library materials does not automatically
15 qualify as grounds for equitable tolling). Additionally, Petitioner’s purported lack of law
16 library access due to COVID restrictions in 2020 does not explain why he failed to file a
17 federal habeas petition during the AEDPA limitations period, which in his case expired on
18 June 20, 2017.

19 While Petitioner summarily claims that he speaks “little English,” this conclusory
20 assertion, unsupported by any facts showing that his language skills made it impossible
21 for him to file a timely petition, does not warrant equitable tolling. According to the
22 Ninth Circuit, “[l]ack of English proficiency can constitute an extraordinary circumstance
23 for equitable tolling purposes, but only when the petitioner is unable to procure legal
24 materials in his own language or to obtain translation assistance.” *Yow Ming Yeh v.*
25 *Martel*, 751 F.3d 1075, 1078 (9th Cir. 2014) (citing *Mendoza v. Carey*, 449 F.3d 1065,
26 1070 (9th Cir. 2006)). Petitioner makes no such showing, and in fact, the fluency he
27 displays in his Petition and the objections to the Report and Recommendation appears to
28 belie his claim to poor language skills. *See Williams v. Dexter*, 649 F. Supp. 2d 1055,

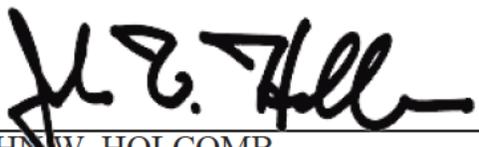
1 1062 (C.D. Cal. 2009) (conclusory equitable tolling claims unsupported by evidence will
2 not render a petition timely) (citing cases). In light of Petitioner’s admission that for years
3 after his conviction, he “never looked at his plea agreement as wrong,” and that he studied
4 “with someone [for] months” once he believed he had found a possible ground for
5 challenging his plea agreement, it does not appear that Petitioner’s purported lack of
6 language skills was the cause of his failure to begin state habeas proceedings until years
7 after the AEDPA limitations period had already expired. (Opp. at 3-4). Accordingly,
8 Petitioner has failed to show an entitlement to equitable tolling.

9 IT IS ORDERED that the Petition is denied and Judgment shall be entered
10 dismissing this action with prejudice.

11 IT IS FURTHER ORDERED that the Clerk serve copies of this Order and the
12 Judgment herein on Petitioner at his current address of record.

13 LET JUDGMENT BE ENTERED ACCORDINGLY.

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15 DATED: February 16, 2021

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19 JOHN W. HOLCOMB
20 UNITED STATES DISTRICT JUDGE
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