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5 UNITED STATES DISTRICT COURT
6 NORTHERN DISTRICT OF CALIFORNIA
7

8 In Re.

No. C 13-243 SI (pr)

9 KELVIN J. JONES,

ORDER OF DISMISSAL

10 Petitioner.
11 _____/

12 Kelvin J. Jones wishes to challenge his state court criminal conviction. Rather than filing
13 a petition for writ of habeas corpus, he filed a letter requesting an extension of time to file a
14 petition for writ of habeas corpus.

15 The court cannot provide the requested extension of time on the habeas statute of
16 limitations deadline, 28 U.S.C. § 2244(d). Under general principles derived from the "case or
17 controversy" requirement of Article III, Section 2, of the United States Constitution, a federal
18 court may not issue advisory opinions. *See United States v. Cook*, 795 F.2d 987, 994 (Fed. Cir.
19 1986) (district court erred in tolling statute of limitations as to future claims by persons not party
20 to the case before the court). Federal courts do not "sit to decide hypothetical issues or to give
21 advisory opinions about issues as to which there are not adverse parties before [them]." *Id.*
22 (quoting *Princeton University v. Schmid*, 455 U.S. 100, 102 (1982)). There is no concrete
23 dispute for this court to decide: Jones' request in essence asks the court to determine in advance
24 whether his petition for writ of habeas corpus will be time-barred if it is filed at some
25 unspecified date in the future which may or may not be within the one-year period prescribed
26 by 28 U.S.C. § 2244(d). This court could not grant the requested relief without offending the
27 Constitution's case or controversy requirement. Although Jones obtains no relief today, he is not
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1 forever barred from requesting relief. If and when Jones files a late habeas petition, he may
2 make an argument that the limitations period should be equitably tolled. *See Holland v. Florida*,
3 130 S. Ct. 2549, 2562 (2010) ("[A] 'petitioner' is 'entitled to equitable tolling' only if he shows
4 '(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance
5 stood in his way' and prevented timely filing.") At that point, and not before then, a court will
6 consider whether the statute of limitations should be tolled. The request for an extension of time
7 is DENIED. (Docket # 1.)

8 In his letter, Jones indicates that his state court appeal was filed in the Second Appellate
9 District, Division Five. That suggests that the *Northern* District is not the right district for Jones'
10 eventual federal habeas petition. The Second Appellate District hears appeals of convictions in
11 Los Angeles, San Luis Obispo, Santa Barbara, and Ventura counties. If Jones' conviction
12 occurred in one of those counties, he should file his federal habeas petition in the U.S. District
13 Court for the *Central* District of California.

14 There is no case or controversy over which the court may exercise jurisdiction. The
15 action is therefore DISMISSED. The clerk shall close the file.

16 IT IS SO ORDERED.

17 DATED: April 24, 2013



SUSAN ILLSTON
United States District Judge