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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

RONALD REED DUMAS,

vs.
MATTHEW CATE,

Petitioner,

Respondent.

CASE NO. 10cv653-LAB (WVG)
**ORDER DENYING CERTIFICATE
OF APPEALABILITY**

On January 25, 2011, the Court issued an order denying Petitioner Ronald Dumas’ petition for writ of habeas corpus pursuant to 42 U.S.C. § 2254, finding the petition was time-barred and he was not entitled to tolling. Judgment was entered the next day. Dumas then filed a notice of appeal.

In its order of January 25, the Court noted Dumas filed no opposition to Respondent’s motion to dismiss, nor did he file objections to Magistrate Judge William Gallo’s report and recommendation, which recommended denying the petition. As noted in that order, Dumas allowed AEDPA’s one-year limitations period to expire before his mother contacted a lawyer on his behalf to ask about filing a habeas petition. Even assuming the attorney’s handling of Dumas’ petition was negligent and would otherwise have entitled Dumas to tolling, it made no difference here. His petition was time-barred even before the attorney was contacted.

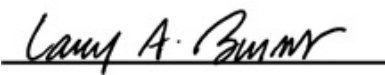
When, as here, the Court rejects a claim on procedural grounds, a petitioner can obtain a certificate of appealability only on a showing that “jurists of reason would find it

1 debatable whether the petition states a valid claim of the denial of a constitutional right and
2 that jurists of reason would find it debatable whether the district court was correct in its
3 procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Dumas has made no
4 showing of a denial of a constitutional right, and the Court finds jurists of reason would not
5 find the procedural ruling debatable. The certificate of appealability is **DENIED**.

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IT IS SO ORDERED.

DATED: March 8, 2011


HONORABLE LARRY ALAN BURNS
United States District Judge