

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

EDGAR TATUM, :  
Petitioner, :  
 :  
v. : CASE NO. 3:12-cv-1193 (WWE)  
 :  
PETER J. MURPHY, :  
Respondent. :

ORDER DENYING CERTIFICATE OF APPEALABILITY

On November 5, 2013, the court dismissed this petition for writ of habeas corpus as untimely filed. The petitioner, Edgar Tatum, appealed the dismissal. By mandate filed February 13, 2015, the Court of Appeals remanded the case and directed the court to consider Tatum's argument that the limitations period should be equitably tolled.

Tatum's argument is based on his misunderstanding of the prison mailbox rule. The prison mailbox rule considered a document to be filed in federal court on the day the document is given to prison officials to be mailed to the court. See *Noble v. Kelly*, 246 F.3d 93, 97 (2d Cir.), cert. denied, 534 U.S. 886 (2001). The Connecticut courts, however, have specifically declined to adopt the prison mailbox rule for filings in state court. See *Hastings v. Commissioner*, 847 A.3d 1009, 1012 (Conn.

App. 2004), *cert. dismissed as improvidently granted*, 876 A.3d 1196 (Conn. 2005).

The court calculated the applicable limitations period with tolling for any pending state court application. Applying the prison mailbox rule to the federal filing but not the state court filings, this court determined that the petition was not timely. In addition, the court determined that Tatum did not satisfy the requirements for equitable tolling. Accordingly, the court declined to reopen this case. See Doc. #32.

The court concludes that jurists of reason would not find it debatable that Tatum failed to timely file this petition and that equitable tolling is not warranted. Thus, a certificate of appealability will not issue. See *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (holding that, when the district court denies a habeas petition on procedural grounds, a certificate of appealability should issue if jurists of reason would find debatable the correctness of the district court's ruling).

**SO ORDERED.**

/s/Warren W. Eginton  
Warren W. Eginton  
Senior United States District Judge

Dated at Bridgeport, Connecticut: June 17, 2016.