



2. The Petition [Doc. No. 1] is **DISMISSED WITHOUT AN EVIDENTIARY HEARING;**

3. A Certificate of Appealability **SHALL NOT ISSUE;**<sup>3</sup>

The Clerk of Court is directed to **CLOSE** this case.

**IT IS SO ORDERED.**

**BY THE COURT:**

*/s/ Cynthia M. Rufe*

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**CYNTHIA M. RUFÉ, J.**

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this Court referred the case to United States Magistrate Judge Lynne A. Sitarski for a Report and Recommendation.

The R&R correctly identifies the dispositive issue as the timeliness of the Petition. Pursuant to 28 U.S.C. § 2244(d)(1), a petition for a writ of habeas corpus must be filed in federal court within one year of the date upon which a state conviction becomes final. This one year limitations period is extended by any length of time that the petitioner pursues state collateral review of his conviction. 28 U.S.C. § 2244(d)(2). Because no appeal was docketed on Petitioner's behalf, Petitioner did not pursue state collateral review, and no other post-conviction motions were filed, Petitioner's conviction became final on May 26, 2011, when the time for filing a direct appeal lapsed. *See* Pa. R. App. P. 903(c)(3) (stating that notice of appeal in a criminal case in which no post-sentence motions were filed must be filed within 30 days of the imposition of the sentence). Petitioner did not file a federal habeas petition until July 9, 2013, more than two years later. Petitioner therefore failed to file the Petitioner within the one year limitations period.

The R&R also recognizes that the Petition, liberally construed, raises a claim for equitable tolling of the limitations period. In order to ensure the finality of state convictions, equitable tolling requires a petitioner to "show[] (1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way and prevented timely filing." *Holland v. Florida*, 560 U.S. 631, 649 (2010) (internal quotations omitted). Petitioner contends that he was unable to file within the limitations period because of "ineffective assistance of counsel," without providing any further explanation. Petition at 14. The bare assertion of ineffective assistance of counsel is not sufficient to meet Petitioner's burden to show that extraordinary circumstances prevented him from timely filing his Petition.

The R&R is also correct that the remainder of the Petition provides no grounds for equitable tolling. Petitioner further contends that he was unable to appeal his conviction because he was "uneducated in due process of law" and he received no response to his attempt to appeal his conviction. Petition at 7, 9, 11. It is well-established that a petitioner's ignorance of the law is not grounds for equitable tolling. *See Ross v. Varano*, 712 F.3d 784, 799-800 (3d Cir. 2013). The Petition also provides no basis to conclude that Petitioner exercised reasonable diligence in attempting to appeal because the Petition does not explain how Petitioner attempted to appeal. For these reasons, equitable tolling is not warranted and the R&R that the Petition be dismissed as untimely will be adopted.

<sup>3</sup> For the reasons discussed above, Petitioner has made no "substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003), and is therefore not entitled to a certificate of appealability.