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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 PHONSAVANH PHONGMANIVAN,

10 Petitioner,

11 v.

12 MARGARET GILBERT,

13 Respondent.

CASE NO. C16-0556-RAJ

ORDER OF DISMISSAL

14 The Court, having reviewed the Report and Recommendation (Dkt. # 17) of the
15 Honorable Mary Alice Theiler, United States Magistrate Judge, the parties' objections thereto
16 (Dkt. ## 18, 19, 20), and the remaining record, finds and Orders as follows:

- 17 1. The Court adopts the Report and Recommendation;
- 18 2. Petitioner's habeas petition is DENIED as time barred, and this action is
19 DISMISSED with prejudice;
- 20 3. A certificate of appealability is GRANTED with respect to petitioner's claim that
21 he is entitled to equitable tolling of the statute of limitations based on the unavailability of certain
22 transcripts. A certificate of appealability is DENIED as to all other claims raised in petitioner's
23 federal habeas petition and traverse. *See* 28 U.S.C. § 2253; and

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