

1
2
3
4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT SEATTLE

6 MUHAMMED TILLISY,

7 Petitioner,

8 v.

9 UNITED STATES OF AMERICA,

10 Respondent.

C17-437 TSZ
[related to CR09-269 MJP]

ORDER

11 THIS MATTER comes before the Court on petitioner's motion under 28 U.S.C.
12 § 2255, docket no. 1, and the Government's motion to dismiss, docket no. 10. Petitioner
13 Muhammed Tillisy is currently in the custody of the Washington State Department of
14 Corrections, serving a 120-month sentence in Snohomish County Superior Court Case
15 No. 12-1-01246-1, after which he will serve a 43-month sentence in Snohomish County
16 Superior Court Case No. 12-1-01574-5. On September 16, 2013, the Honorable Marsha
17 J. Pechman imposed a term of one year plus one day for violations of supervised release,
18 to run consecutively to the period of incarceration in the Snohomish County matters. See
19 Judgment (CR09-269, docket no. 232).¹ No appeal was taken. Petitioner now challenges
20 the 366-day sentence on Fifth Amendment (due process) and Eighth Amendment

21
22 ¹ On January 21, 2016, the Honorable Robert S. Lasnik committed petitioner to the custody of the United
23 States Bureau of Prisons for 84 months in connection with petitioner's convictions, following a jury trial,
on all ten counts of the indictment; such period of imprisonment is set to begin after petitioner completes
the sentence imposed by Judge Pechman. See Judgment (CR13-310, docket no. 194).

1 grounds. See § 2255 Motion (docket no. 1). The Government aptly indicates that
2 petitioner’s § 2255 motion is untimely. The one-year period for petitioner to bring a
3 § 2255 motion began to run on the date the judgment at issue became final, *i.e.*, on
4 October 2, 2013. See Fed. R. App. P. 4(b)(1). The current § 2255 motion was filed on
5 March 20, 2017, well after the one-year deadline expired on October 2, 2014.²

6 **Conclusion**

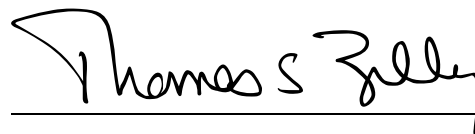
7 For the foregoing reasons, the Court ORDERS:

- 8 (1) The Government’s motion to dismiss, docket no. 10, is GRANTED;
9 (2) Petitioner’s § 2255 motion, docket no. 1, is DISMISSED as untimely;
10 (3) A certificate of appealability is DENIED; and
11 (4) The Clerk is DIRECTED to send a copy of this Order to all counsel of

12 record and petitioner pro se, and to CLOSE this case.

13 IT IS SO ORDERED.

14 Dated this 13th day of December, 2017.

15 

16 Thomas S. Zilly
17 United States District Judge

18 _____
19 ² Petitioner’s assertion that the one-year limitation period for filing a § 2255 motion should be equitably
20 tolled lacks merit. The threshold necessary to trigger equitable tolling is “very high.” *Miranda v. Castro*,
21 292 F.3d 1063, 1066 (9th Cir. 2002) (quoting *United States v. Marcello*, 212 F.3d 1005, 1010 (7th Cir.
22 2000)). Equitable tolling requires a showing that (i) the petitioner has diligently pursued his or her rights,
23 and (ii) extraordinary circumstances exist. *E.g.*, *United States v. Aguirre-Ganceda*, 592 F.3d 1043, 1045
(9th Cir. 2010). Petitioner has not demonstrated the requisite diligence or extraordinary circumstances.
Indeed, during the entire year in which petitioner should have filed his § 2255 motion, he was in federal,
not state, custody, awaiting trial in CR13-310, and he was represented in that case by the same attorney
who appeared on his behalf in CR09-269.