

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

6 ROBERT BENOIT,

7 Petitioner,

8 v.

9 PATRICK GLEBE,

10 Respondent.

No. C13-5208 RJB

ORDER ADOPTING REPORT AND
RECOMMENDATION DISMISSING
HABEAS CORPUS PETITION AS
UNTIMELY

11 This matter comes before the Court on the Report and Recommendation of the United
12 States Magistrate Judge Karen L. Strombom. Dkt. 17. Petitioner has filed an objection to the
13 Report and Recommendation asserting that he is entitled to equitable tolling of the statute of
14 limitations based on actual innocence and attorney abandonment. Dkt. 18. The Court has
15 considered the Report and Recommendation, the objection to the Report and Recommendation,
16 and the remaining record.

17 The Report and Recommendation should be adopted and the petition dismissed as time
18 barred. As detailed in the Report and Recommendation, Petitioner failed to file his petition
19 within one year of the date his state court judgment became final. Petitioner's objection is a
20 restatement of the argument in his habeas petition and as detailed in the Report and
21 Recommendation fails to provide any basis for statutory or equitable tolling. Petitioner's
22 objections are without merit. There are no extraordinary circumstances here that prevented
23 Petitioner from timely filing his petition on his own. Petitioner fails to demonstrate any
24 deception, fraud, or error that prevented him from timely filing his federal habeas petition.
25
26 Petitioner has also failed to establish the actual innocence standard.

ORDER ADOPTING REPORT AND RECOMMENDATION - 1

