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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CARLOS DUANE HENDON, Petitioner - Appellant, v. WALKER; et al., Respondents - Appellees.	No. 07-16496 D.C. No. CV-06-01645-RRB MEMORANDUM [*]

Appeal from the United States District Court
for the Eastern District of California
Ralph R. Beistline, District Judge, Presiding

Submitted May 12, 2008 [**]

Before: KOZINSKI, Chief Judge, THOMAS and CALLAHAN, Circuit Judges.

This is an appeal from the denial of a petition for writ of habeas corpus. The district court held that petitioner's challenge to prison disciplinary actions that occurred between 1997 and 2002 was untimely. *See* 28 U.S.C. § 2244(d).

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[*] This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

[**] The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

KB/MOATT

Petitioner's first state habeas petition challenging the prison's action was filed in 2003. Petitioner filed a second state petition raising the same claims in 2006. This federal petition for habeas corpus was filed by petitioner on July 26, 2006.

Petitioner argues that he is entitled to equitable tolling because he had restricted use of the law library and was physically unable to file any habeas petitions. Petitioner's argument is insufficient to justify a nearly three year delay between the filing of the state habeas petitions. There is no tolling for the period of time where a petitioner unreasonably delays between state court applications. *See Carey v. Saffold*, 536 U.S. 214, 225 (2002).

A review of the record and the opening brief indicates that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

Accordingly, we summarily affirm the district court's judgment.

All pending motions are denied as moot.

AFFIRMED.