

SEP 04 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CESAR FRANCISCO VILLA,

Petitioner - Appellant,

v.

JEANNE WOODFORD,

Respondent - Appellee.

No. 06-15043

D.C. No. CV-03-03900-RMW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Ronald M. Whyte, District Judge, Presiding

Submitted August 26, 2008**

Before: SCHROEDER, KLEINFELD, and IKUTA, Circuit Judges.

California state prisoner Cesar Francisco Villa appeals from the district court's order dismissing his 28 U.S.C. § 2254 petition as untimely. We have jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

* 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).

Villa contends that he is entitled to equitable tolling because his confusion regarding the Antiterrorism and Effective Death Penalty Act's statutory requirements, combined with a 30-day loss of access to his legal papers due to a prison transfer, constitutes extraordinary circumstances beyond his control. Villa's contention fails because a pro se petitioner's lack of legal sophistication is not an extraordinary circumstance warranting equitable tolling. *See Raspberry v. Garcia*, 448 F.3d 1150, 1154 (9th Cir. 2006). Furthermore, Villa's temporary loss of access to his legal papers, roughly one and one half months into the one-year limitations period, did not prevent him from filing a timely federal habeas petition. *See Allen v. Lewis*, 255 F.3d 798, 799-801 (9th Cir. 2001) (per curiam).

AFFIRMED.