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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>NICOLAS QUINTERO ALVAREZ,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>DORA B. SCHRIRO; et al.,</p> <p>Respondents - Appellees.</p>

No. 06-16330

D.C. No. CV-05-01999-JWS

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
John W. Sedwick, District Judge, Presiding

Submitted July 22, 2008**

Before: B. FLETCHER, THOMAS, and WARDLAW, Circuit Judges.

Arizona state prisoner Nicholas Quintero Alvarez appeals from the district court's order dismissing his 28 U.S.C. § 2254 as untimely and procedurally barred.

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).

Alvarez fails to show cause for the default of his federal claim in state court, therefore federal habeas review of the claim is barred. *See Thomas v. Lewis*, 945 F.2d 1119, 1123 (9th Cir. 1991).

Even if Alvarez's claim were not procedurally barred, his contention that he is entitled to equitable tolling of the Antiterrorism and Effective Death Penalty Act's one-year statute of limitations would fail as he cannot demonstrate extraordinary circumstances sufficient to justify equitable tolling. *See Allen v. Lewis*, 255 F.3d 798, 799-801 (9th Cir. 2001) (per curiam).

Alvarez's motion to expand the certificate of appealability is denied. *See* 9th Cir. R. 22-1(e); *see also Hiivala v. Wood*, 195 F.3d 1098, 1104 (9th Cir. 1999) (per curiam).

AFFIRMED.