

United States Court of Appeals
For the Eighth Circuit

No. 24-2812

Michael Lynn Merrival, Jr.

Petitioner - Appellant

v.

Alex Reyes, Acting Warden

Respondent - Appellee

Appeal from United States District Court
for the District of South Dakota - Western

Submitted: October 7, 2025

Filed: October 14, 2025

[Unpublished]

Before SMITH, KELLY, and KOBES, Circuit Judges.

PER CURIAM.

Michael Merrival, Jr. appeals after the district court¹ dismissed his pro se 28 U.S.C. § 2254 petition as untimely. The district court granted a certificate of

¹The Honorable Charles B. Kornmann, United States District Judge for the District of South Dakota.

appealability as to whether the timeliness determination was erroneous. Initially, we grant Merrival's motion to take judicial notice of documents filed in other court proceedings. See Stutzka v. McCarville, 420 F.3d 757, 760 n.2 (8th Cir. 2005) (appellate court may take judicial notice of judicial opinions and public records).

After careful de novo review, we conclude that the district court's dismissal was proper, as the petition was untimely, and Merrival was not entitled to equitable tolling. See 28 U.S.C. § 2244(d)(1)(A) (habeas application challenging state court judgment must be filed within 1 year of the date on which conviction became final); Camacho v. Hobbs, 774 F.3d 931, 932 (8th Cir. 2015) (standard of review); Maghee v. Ault, 410 F.3d 473, 476 (8th Cir. 2005) ("Equitable tolling is appropriate where extraordinary circumstances beyond a prisoner's control make it impossible to file a petition on time, or where a defendant's conduct lulls the prisoner into inaction."); see also Johnson v. Hobbs, 678 F.3d 607, 610-11 (8th Cir. 2012) (extraordinary circumstance must be external and not attributable to petitioner).

The judgment of the district court is affirmed.
