

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 08-2307

Jeremiah J. Kerby,

Appellant,

v.

United States of America,

Appellee.

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Appeal from the United States
District Court for the
Northern District of Iowa.

[UNPUBLISHED]

Submitted: October 9, 2009
Filed: October 21, 2009

Before BYE, BOWMAN, and BENTON, Circuit Judges.

PER CURIAM.

Jeremiah J. Kerby appeals the district court's¹ denial of his 28 U.S.C. § 2255 motion. Having carefully reviewed the matter, we conclude Kerby's § 2255 motion is untimely and equitable tolling is not warranted. Thus, we summarily affirm. See 8th Cir. R. 47B.

¹The Honorable Donald E. O'Brien, United States District Judge for the Northern District of Iowa.