

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

CLEVELAND EVANS
ADC #147756

PETITIONER

v.

No. 5:17CV00065-JLH-JJV

WENDY KELLEY, Director,
Arkansas Department of Correction

RESPONDENT

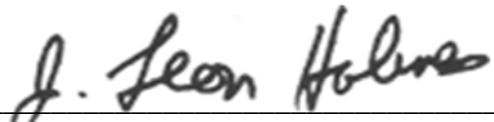
ORDER

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge Joe J. Volpe and Cleveland Evans's objections. After carefully considering the objections and making a *de novo* review of the record, the Court concludes the Proposed Findings and Recommended Disposition should be, and hereby are, approved and adopted as this Court's findings with the following modifications: the Court declines to adopt the proposed finding that Charlene Hatter estimated she paid Bill Luppen a total of approximately \$26,000 for the work he performed on behalf of her son, Cleveland Evans. The receipts previously attached to Evans's objections (Document #10) show that Hatter paid \$350 on July 11, 2011, \$400 on July 18, 2011, and \$1,250 for a court reporter and an expert witness on July 31, 2012. She testified that she subsequently paid Luppen approximately \$200 every two weeks until late 2015 or early 2016 but may have missed some payments. The proposed finding on page 3, "[a]round this same time, Ms. Hatter said she was contacted by her son who told her there was a possibility he was running out of time to file the federal habeas petition," is modified to say Hatter testified, "maybe six months later, my son told me . . . 'Momma, the guys down here are telling me something different in prison.'"

IT IS, THEREFORE, ORDERED that:

1. The Petition for Writ of Habeas Corpus is DISMISSED as time-barred.
2. A certificate of appealability will not be issued.

DATED this 21st day of December, 2017.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE