

United States Court of Appeals
For the Eighth Circuit

No. 12-1840

Phillip D. Williams

Plaintiff - Appellant

v.

Artis Ray Hobbs, Director, Arkansas Department of Correction

Defendant - Appellee

Appeal from United States District Court
for the Eastern District of Arkansas - Pine Bluff

Submitted: January 17, 2013

Filed: June 7, 2013

[Unpublished]

Before BYE and MELLOY, Circuit Judges, and KOPF,¹ District Judge.

PER CURIAM.

Phillip Williams appeals the district court's dismissal of his habeas corpus petition as untimely. The issue before this Court is whether the district court properly

¹The Honorable Richard G. Kopf, United States District Court for the District of Nebraska, sitting by designation.

determined that Williams is not entitled to equitable tolling. However, this issue is now moot after the U.S. Supreme Court's decision in McQuiggin v. Perkins, No. 12-126, 569 U.S. ___, 2013 WL 2300806 (May 28, 2013), as Williams asserted newly discovered evidence of actual innocence as the primary ground for his petition. Therefore, we remand to the district court for a determination as to whether Williams's new evidence meets the "demanding" actual-innocence standard.² Id. at *12.

²We recognize that the magistrate judge indicated in a footnote that he doubted that Williams met the actual-innocence standard. However, the district court did not discuss this finding and did not rely on this finding in its decision.