

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

JOHN EARL JORDAN, JR.,
Reg. #07438-043

PETITIONER

V.

2:10CV00036-WRW-JJV

T. C. OUTLAW,
Warden, FCI-Forrest City

RESPONDENT

ORDER

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge Joe J. Volpe and the party's objections. After carefully considering the objections and making a *de novo* review of the record in this case, the Court concludes that the Proposed Findings and Recommended Disposition is approved and adopted -- with the exception noted below -- as this Court's findings in all respects.

Regarding Ground Six of his complaint, Mr. Jordan's objections note that Section 2244(b) of Title 28 may not apply to 2241 applications.¹ Some circuits have so held,² and the Eight Circuit is silent on the issue. Regardless, Section 2244(a) of Title 28 prohibits the filing of second or successive § 2241 petitions if the issues therein were, or could have been, decided in a previous federal habeas action.³ Magistrate Judge Volpe's reasoning as to Section 2244(b) applies equally

¹Doc. No. 15.

²See, e.g., *Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1351-52 (11th Cir. 2008); *Collins v. Holinka*, 510 F.3d 666, 667 (7th Cir. 2007) (per curiam).

³See, e.g., *Shabazz v. Keating*, 242 F.3d 390, 392 (10th Cir.2000) (unpublished) (stating that Section 2244(a) means that "we are not required to entertain a § 2241 petition if the legality of the detention has been determined by a prior application"); *Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1352 (11th Cir. 2008) (same); see also *Phelps v. U.S. Federal Government*, 15 F.3d 735, 737-38 (8th Cir. 1994) (affirming district court's application of pre-AEDPA version of § 2244 to find an abuse of the writ in a successive § 2241 petition).

to Section 2244(a), Petitioner's claim in Ground Six remains successive, and I adopt Magistrate Judge Volpe's conclusions as to Ground six under the authority of Section 2244(a).

IT IS THEREFORE ORDERED that Mr. Jordan's Petition (Doc. No. 1) is DISMISSED with prejudice. The requested relief is denied and any pending motions (Doc. Nos. 3, 5, 7, 8, 10, 11) are DENIED as MOOT.

DATED this 14th day of June, 2010.

/s/Wm. R. Wilson, Jr.
UNITED STATES DISTRICT JUDGE