

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

FREDERICK BANKS
Reg #05711-068

PETITIONER

VS.

NO. 2:12-CV-00141-SWW-BD

T.C. OUTLAW, Warden,
Federal Correctional Complex,
Forrest City, Arkansas

RESPONDENT

ORDER

The Court has reviewed the Recommended Disposition (“Recommendation”) filed by Magistrate Judge Beth Deere; has considered Mr. Banks’s objections to the Recommendation; and has reviewed *de novo* those portions of the Recommendation to which Mr. Banks objects. After careful consideration, this Court adopts the Recommendation as its own.¹ Frederick Banks’s petition for writ of habeas corpus (docket entry #2) is dismissed without prejudice.

When entering a final order adverse to a habeas corpus petitioner, the Court must issue or deny a certificate of appealability. Rule 11 of the Rules Governing Section 2254 Cases. A certificate of appealability may issue only if a petitioner has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(1)-(2). In this case, there is no basis for this court to issue a certificate of appealability. Accordingly, a certificate of appealability is denied.

¹It is clear from the record that Mr. Banks failed to exhaust his administrative remedies before he filed his petition.

IT IS SO ORDERED, this 13th day of November, 2012.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE