

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

EVERETT FOREMAN  
ADC #102271

PETITIONER

v.

No. 5:99-cv-390-DPM

WENDY KELLEY, Director,  
Arkansas Department of Correction

RESPONDENT

ORDER

This Court denied Foreman's Rule 60 motion for lack of jurisdiction because the paper was, at its core, a successive *habeas* petition. *No 20*. The Court also said that he needed permission from the Court of Appeals to press new claims now. *Ibid*. Foreman took the hint and sent the Court of Appeals a motion to file new claims here. The Clerk of the Court of Appeals marked that motion as "received" and returned it to this Court; and the Clerk of this Court has filed the paper as a motion. *No 21*. *Boyd v. United States*, 304 F.3d 813 (8th Cir. 2002), holds that, in these circumstances, this Court can either dismiss for want of jurisdiction or transfer the motion to the Court of Appeals. Foreman is doing the best he can to get a merits ruling on whether he can make new *habeas* claims. So the Court transfers his motion to the Court with

power to make that call. Motion, No 21, transferred to the United States Court of Appeals for the Eighth Circuit.

So Ordered.

D.P. Marshall Jr.

D.P. Marshall Jr.  
United States District Judge

17 March 2017