

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

BILLY JACK KAIN

PETITIONER

vs.

Civil Case No. 5:06CV00046 HLJ

LARRY NORRIS, Director,  
Arkansas Department of Correction

RESPONDENT

**PROPOSED FINDINGS AND RECOMMENDATIONS**

**INSTRUCTIONS**

The following recommended disposition has been sent to United States District Court Judge J. Leon Holmes. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than eleven (11) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing before the District Judge (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The detail of any testimony desired to be introduced at the hearing before the District Judge in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the hearing before the District Judge.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and "Statement of Necessity" to:

Clerk, United States District Court  
Eastern District of Arkansas  
600 West Capitol Avenue, Suite 402  
Little Rock, AR 72201-3325

#### **DISPOSITION**

Petitioner has submitted what the court has determined to be a successive petition to his previously filed habeas cases, Kain v. Norris, PB-C-95-520 (D.E.Ark. June 7, 1996). The Eighth Circuit denied a certificate of appealability on September 5, 1996. Kain v. Norris, No. 96-2862EAPB (Sept.5, 1996). The amendments to 28 U.S.C. §2254 that were signed into law April 26, 1996, prohibit petitioners from filing successive petitions in the District Court without authorization from the Circuit Court of Appeals. The requirements that must be met to obtain authorization from the Court of Appeals are found in 28 U.S.C. §2244(b), as amended. The

amendments are available in the unit law library, or by contacting the Clerk, Eighth Circuit Court of Appeals, Thomas F. Eagleton Courthouse, 111 S. 10<sup>th</sup> Street, St. Louis, Mo. 63102, for more information.

IT IS THEREFORE ORDERED that this petition be, and it is hereby, dismissed pending an order from the Eighth Circuit Court of Appeals containing authorization for filing.

SO ORDERED this 10<sup>th</sup> day of May, 2006.

  
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United States Magistrate Judge