

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

KEITH ALLEN DEATON

PETITIONER

vs.

Civil Case No. 5:08CV00221 HLJ

**LARRY NORRIS, Director,
Arkansas Department of Correction**

RESPONDENT

ORDER

The court has received the recommended disposition from Magistrate Judge Henry L. Jones, Jr. (Doc. No. 21). The parties did not file objections. After carefully reviewing the recommended disposition and reviewing the record *de novo*, it is concluded that the recommended disposition should be, and hereby is, approved and adopted in all respects in its entirety.

Deaton's argument is compelling, but Eighth Circuit precedent controls whether equitable tolling applies. In order for equitable tolling to apply, Deaton must establish that (1) he has been pursuing his rights diligently and (2) some extraordinary circumstance stood in his way. *Riddle v. Kemna*, 523 F.3d 850, 857 (8th Cir. 2008). Deaton has not proven that he has diligently pursued this case.

Accordingly, judgment shall be entered dismissing this petition for writ of habeas corpus in its entirety, with prejudice.

IT IS SO ORDERED this 7th day of June, 2010.



UNITED STATES DISTRICT JUDGE