

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

STACY KING, ADC #119212

PETITIONER

v.

NO. 5:09CV00357 JLH

LARRY NORRIS, Director,
Arkansas Department of Correction

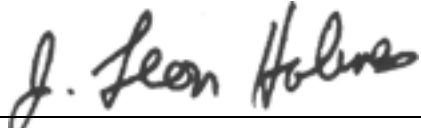
RESPONDENT

ORDER

The Court has reviewed the proposed findings and recommended disposition submitted by Magistrate Judge Joseph J. Volpe and the objections to the proposed findings and recommended disposition submitted by Stacy King. After *de novo* review, the Court concludes that the proposed findings and recommended disposition submitted by Magistrate Judge Volpe should be and hereby are adopted as this Court's findings in all respects. Magistrate Judge Volpe recommended that the Court find that King's petition for writ of habeas corpus is barred by the one-year statute of limitations provided in 28 U.S.C. § 2244(d). The disposition of that issue depends upon a determination as to whether the Arkansas Court of Appeals was the court of last resort for King's direct appeal from his conviction. The Eighth Circuit held that the Arkansas Court of Appeals is the court of last resort for a determination of a criminal direct appeal even for cases in which there is no good faith basis for petitioning the Supreme Court of Arkansas for review. *Parmley v. Norris*, 586 F.3d 1066 (8th Cir. 2009). That decision overruled an opinion from this Court holding that the Arkansas Court of Appeals is the court of last resort for cases in which there is no good faith basis for petitioning the Supreme Court of Arkansas. *Id.* at 1072 (overruling *Collier v. Norris*, 402 F. Supp. 2d 1026 (E.D. Ark. 2005)).

A certificate of appealability is granted on the issue of whether King's petition for writ of habeas corpus is barred by the one-year period of limitations provided in 28 U.S.C. § 2244(d) and on the issue of whether King is entitled to relief by virtue of the doctrine of equitable tolling.

IT IS SO ORDERED this 5th day of November, 2010.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE