

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

JAMES C. SMITH
ADC #83395

PETITIONER

v.

NO. 5:10CV00002 JLH/BD

RAY HOBBS, Interim Director,
Arkansas Department of Correction

RESPONDENT

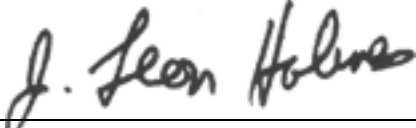
ORDER

Adopting a recommendation of United States Magistrate Judge Beth Deere, the Court dismissed James C. Smith's petition for writ of habeas corpus because it was barred by the one-year statute of limitations provided in 28 U.S.C. § 2244(d)(1). Smith has filed an application for certificate of appealability, citing the standard in *Slack v. McDaniel*, 529 U.S. 473, 120 S. Ct. 1595, 146 L. Ed. 2d 542 (2000). There, the Supreme Court held:

[W]hen the district court denies a habeas petition on procedural grounds without reaching the prisoner's underlying constitutional claim, a COA should issue (and an appeal of the district court's order may be taken) if the petitioner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right, and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.

Id. at 478, 120 S. Ct. at 1600-01. Although Smith correctly cites the *Slack* standard, he addresses only one-half of that standard. His application for a certificate of appealability argues that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right. He does not, however, argue that jurists of reason would find it debatable as to whether this Court was correct in its ruling that the petition for writ of habeas corpus is barred by the statute of limitations. Because Smith has offered no reason as to why jurists of reason would find it debatable whether his petition is barred by the statute of limitations, the application for certificate of appealability is DENIED. Document #26.

IT IS SO ORDERED this 3rd day of August, 2010.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE