

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

EDWARD LEE CARTER
ADC #109307

PETITIONER

v.

NO. 5:10CV00256 JLH/BD

RAY HOBBS, Director,
Arkansas Department of Correction

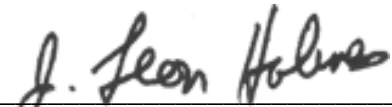
RESPONDENT

ORDER

The Court has received the Recommended Disposition from Magistrate Judge Beth Deere, and has reviewed *de novo* those portions of the report and recommendation to which Carter objected. This Court adopts the Recommendation as its own, with this additional comment. Carter's argument seems to rest on the assumption that he would not be convicted of aggravated robbery where the theft or attempt theft was from Wal-Mart while the force or threatened force was directed toward Salli Redding. That assumption is incorrect. *See Lowe v. State*, 36 Ark. App. 85, 819 S.W.2d 23 (1991). Carter's third amended petition for writ of habeas corpus is dismissed with prejudice. Document #33.

When entering a final order adverse to a habeas corpus petitioner, the Court must issue or deny a certificate of appealability. Rule 11, Rules Governing Section 2254 Cases. A certificate of appealability may issue only if a petitioner has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(1)-(2). In this case, Carter has not provided a basis for this Court to issue a certificate of appealability. Accordingly, a certificate of appealability is denied.

IT IS SO ORDERED this 7th day of November, 2011.



UNITED STATES DISTRICT JUDGE