

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

**PHILLIP D. WILLIAMS, ADC #115975**

**PETITIONER**

**v.**

**Case No. 5:11-cv-28-DPM**

**ARTIS RAY HOBBS, Director,  
Arkansas Department of Correction**

**RESPONDENT**

**ORDER**

The Court has considered Magistrate Judge Joe J. Volpe's proposed findings and recommended disposition, *Document No. 18*, and Williams's objection, *Document No. 22*, on *de novo* review. FED. R. CIV. P. 72(b)(3). The Court appreciates, agrees with, and adopts Judge Volpe's limitations analysis with one exception: in his objection, Williams has begun developing an equitable tolling argument; this argument needs to be explored based on the materials Williams submitted with his objection, other submissions, and perhaps a non-merits evidentiary hearing if Judge Volpe concludes one is needed. As the Magistrate Judge recognized, *Document No. 18*, at 6-7, here Williams must climb a high hill, showing both extraordinary circumstances and diligence to allow any federal court to consider on the merits what is an

otherwise untimely claim. *Holland v. Florida*, 130 S. Ct. 2549 (2010); *U.S. v. Martin*, 408 F.3d 1089 (8th Cir. 2005). Whether Williams can climb that hill will depend on what the fuller record on equitable tolling reveals.

Proposed Findings and Recommended Disposition, *Document No. 18*, adopted in part, rejected in part, and returned for further submissions and proceedings as needed on possible equitable tolling. FED. R. CIV. P. 72(b)(3).

So Ordered.



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D.P. Marshall Jr.  
United States District Judge.

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8 September 2011