

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

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

PETITIONER

v.

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 Recommendations, *Document No. 47*, and Phillip Williams's objections, *Document No. 49*. The Court appreciates Judge Volpe's additional work. After conducting a *de novo* review, which included listening to the audio recording of the hearing on the equitable-tolling issue, the Court adopts Judge Volpe's recommended disposition as its own. FED. R. CIV. P. 72(b)(3).

The record demonstrates that Williams did not exercise reasonable diligence and that no extraordinary circumstances stood in his way to prevent the timely filing of his habeas claims. The record, moreover, presents no issue of attorney abandonment without notice. *E.g., Maples v. Thomas*, __ U.S. __, 2012 WL 125438 (18 January 2012). Williams knew in February 2010, when

he complained to the Committee on Professional Conduct, that his lawyer was not proceeding on the state motion for new trial, much less the alternative federal habeas petition that had also been discussed. At that point, some four months before the latest date that the statute ran on a habeas petition, diligence required Williams to move forward, either on his own or with new counsel. He did not do so. Williams therefore cannot invoke the doctrine of equitable tolling to save his otherwise procedurally-defaulted claims. *King v. Hobbs*, ___ F.3d ___, 2012 WL 246516 (8th Cir. 27 January 2012); *Rues v. Denney*, 643 F.3d 618, 621 (8th Cir. 2011). Because it is time-barred under the AEDPA's one-year statute of limitations, Williams's petition is dismissed with prejudice. 28 U.S.C. § 2244(d). All pending motions are denied as moot.

So Ordered.



D.P. Marshall Jr.
United States District Judge

9 February 2012