

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

JOHNNIE RAY HAWTHONE

PETITIONER

v.

CASE NO. 5:11cv00045 BSM/JTR

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

RESPONDENT

ORDER

The proposed findings and recommended disposition submitted by United States Magistrate Judge J. Thomas Ray have been reviewed. No objections have been filed. After careful review, it is concluded that the proposed findings and recommended disposition should be, and hereby are, approved and adopted in their entirety in all respects. Judgment will be entered accordingly.

When entering a final order adverse to a federal habeas petitioner, a certificate of appealability must be issued or denied. Rule 11, Rules Governing § 2254 Cases in United States District Courts. A certificate of appealability will issue only if the petitioner has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(1)-(2). As petitioner has not made the requisite showing, his motion for certificate of appealability is denied.

IT IS THEREFORE ORDERED that:

1. Petitioner's motion to proceed *in forma pauperis* [Doc. No. 1] is DENIED, AS MOOT.

2. The petition for a Writ of Habeas Corpus, under 28 U.S.C. § 2254 [Doc. No.

2], is DISMISSED, WITHOUT PREJUDICE, so that petitioner may seek authorization from the Eighth Circuit, pursuant to 28 U.S.C. § 2244(b)(3)(A), to file a successive habeas petition.

3. Petitioner's motion for certificate of appealability is denied.

Dated this 15th day of June, 2011.



UNITED STATES DISTRICT JUDGE