

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

**KENNETH R. ISOM,**

PETITIONER

VS.

Case Number: 5:11-CV-00047 JLH

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

RESPONDENT

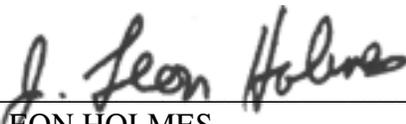
**ORDER**

Pending before the Court is Petitioner's Motion for Leave to Conduct Discovery. Document #22. Petitioner requests leave to issue several subpoenas, obtain records, conduct numerous depositions, and gather additional information to support his pending claims. Respondent opposes the motion, arguing that the motion is premature. Document #23. Petitioner argues that his motion for discovery is not premature, as the additional facts sought will assist in showing that he is actually innocent, thereby excusing any procedural default. He also argues that any new evidence discovered would eventually comprise the state record, if the habeas petition were stayed and he returned to state court to present unexhausted claims. Document #24. Upon due consideration, Petitioner's motion is DENIED as premature.

Prior to the filing of his discovery motion, Petitioner requested the Court stay his petition and hold it in abeyance while he seeks to exhaust his state remedies. Document #21. Petitioner stated that he filed his petition as a "protective petition", so the statute of limitations would not run while seeking to exhaust his claims. *Id.* at 9.

On or before March 7, 2012, Petitioner shall file a brief addressing why his petition should be stayed so that he may seek to exhaust his state remedies. Respondent will file a response within fourteen days after Petitioner's brief is filed. Petitioner may then reply within fourteen days of Respondent's response being filed.

IT IS SO ORDERED this 15th day of February, 2012.

  
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J. LEON HOLMES  
UNITED STATES DISTRICT JUDGE