

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

KELVIN LYNN DAVIS, JR.,  
ADC # 601731

Petitioner,

vs.

RAY HOBBS, Director,  
Arkansas Department of Correction,

Respondent.

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No. 5:11CV00074 - SWW

ORDER

Petitioner filed a Notice of Appeal and a request for a certificate of appealability.

Pursuant to Fed.R.App.P. 22(b)(1), the Court declines to issue a certificate of appealability.<sup>1</sup>

A petitioner has no automatic right to appeal a district court's denial or dismissal of his petition pursuant to 28 U.S.C. § 2254. *See* 28 U.S.C. § 2253(c)(1)(A). “If an applicant files a notice of appeal, the district judge who rendered the judgment must either issue a certificate of appealability or state why a certificate should not issue.” Fed.R.App.P. 22(b)(1). A certificate of appealability may issue only if the applicant has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court's resolution of his

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<sup>1</sup>The Eighth Circuit denied petitioner’s application for a certificate of appealability as to the Notice of Appeal of the dismissal of his habeas petition. Now petitioner seeks a certificate of appealability of the Court’s denial of his motion for relief from judgment.

constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

The Court finds petitioner has failed to make such a showing. Accordingly, the Court declines to issue a certificate of appealability.

DATED this 14<sup>th</sup> day of August, 2013.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE