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

KENNY TRAVIS, JR., Plaintiff,	)	**Case No. 5:11-CV-00119 JTK**
v.	)	
RAY HOBBS, Director, Arkansas Department of Correction Defendant.	)	

ORDER DENYING PETITIONER'S MOTION FOR CERTIFICATE OF APPEALABILITY

BEFORE THE COURT is Kenny Travis, Jr.'s Motion for Certificate of Appealability (Doc. No. 49). This Motion essentially requests a certificate of appealability to appeal the Court's denial of Petitioner's previous Motion to Compel Discovery Responses (Doc. No. 46). After reviewing the briefing and applicable law, the Court finds that this motion should be DENIED.

Petitioner's requested relief cannot be granted because there has been no final order entered in this action. Rule 11(a) of the Rules Governing Section 2254 cases only anticipates the issuance of denial of a certificate of appealability when a final order has been entered that is adverse to the applicant. Further, 28 U.S.C. § 2253 only discusses certificates of appealability within the context of final orders. Federal Rule of Appellate Procedure Rule 22(a)'s discussion of appeals refers to a "district court's order denying the application" for a writ of habeas corpus.

The term "final order" appears to be synonymous with the term "final judgment," which is used in the Federal Rules of Procedure. *See e.g.*, Fed. R. Civ. P. 54(b). The Court's Order Denying Petitioner's Motion to Compel Discovery Responses made no decision regarding any of Petitioner's claims for relief under his habeas petition. Thus, it was not a final order, and the

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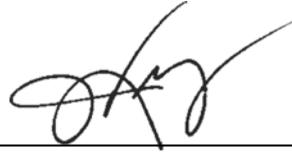
Court is unaware of any legal basis for granting Petitioner's present request for a certificate of appealability.

Even if this were the proper time to issue a certificate of appealability, the relevant standards have not been met.[1] Accordingly, Petitioner's Motion for Certificate of Appealability is DENIED.

SO ORDERED this 18th day of April, 2012.



United States Magistrate Judge

[1] A certificate of appealability "should issue if the applicant has 'made a substantial showing of the denial of a constitutional right,' 28 U.S.C. § 2253(c)(2), which we have interpreted to require that the 'petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong.'" *Tennard v. Dretke*, 542 U.S. 274, 282 (2004) (quoting *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000)).