

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

MAX C. EASTIN
ADC #134018

PETITIONER

v.

NO. 5:11CV00121 JLH-BD

RAY HOBBS, Director,
Arkansas Department of Correction

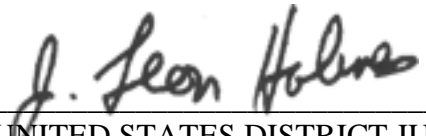
RESPONDENT

ORDER

The Court has received the Recommended Disposition from Magistrate Judge Beth Deere and has reviewed *de novo* those portions of the report and recommendation to which Eastin has objected. The Court adopts the Recommendation as its own findings and dismisses Eastin's amended petition for writ of habeas corpus with prejudice. Document #4.

When entering a final order adverse to a petitioner, the Court must issue or deny a certificate of appealability. *See* Rule 11 of the Rules Governing Section 2254 Cases in the United States District Court. A certificate of appealability may issue only if a petitioner has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(1)-(2). In this case, Eastin has provided a basis for this Court to issue of a certificate of appealability on whether he has established ineffective assistance of counsel as cause and prejudice to excuse his procedural default or as an independent claim for habeas relief. For that reason, Eastin is granted a certificate of appealability.

IT IS SO ORDERED this 8th day of November, 2011.



UNITED STATES DISTRICT JUDGE