

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

CHARLES ASHFORD
ADC # 133975

PLAINTIFF

v.

No. 5:11-cv-132-DPM-JTK

RAY HOBBS, Director,
Arkansas Department of Correction

DEFENDANT

ORDER


The Court has considered Magistrate Judge Jerome T. Kearney's Proposed Findings and Recommendations, *Document No. 16*, to which Ashford has objected, *Document No. 18*. Upon *de novo* review of the record, FED. R. CIV. P. 72(b)(3), the Court adopts the proposal with two brief clarifications. Because all of Ashford's claims are procedurally defaulted – and there being no showing that would excuse this default or demonstrate actual innocence – his petition for writ of habeas corpus must be dismissed.

Two clarifications. First, Ashford rightly objected, *Document No. 18, at 1*, to point out that he was not charged with theft in Pulaski County Circuit Court. Second, Ashford's second motion to amend, *Document No. 14*, is considered on the merits and denied. Judge Kearney, "in an abundance of


caution,” allowed Ashford a chance to amend his petition, but directed him to “specifically provide facts that outline his expungement claim” and also “address whether he exhausted his state remedies.” *Document No. 12*, at 3–4. Because Ashford failed to comply with both of these directives, his motion to amend is denied.

Ashford’s petition, *Document No. 2*, is dismissed with prejudice. The Court will not issue a certificate of appealability because Ashford has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(1)–(2). Ashford’s motion to amend, *Document No. 14*, is denied.

So Ordered.



D.P. Marshall Jr.
United States District Judge



10 January 2012