

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

MICHAEL LEE COWAN,  
ADC #818962

PLAINTIFF

v.

No. 5:12CV00296 JLH-JJV

RAY HOBBS, Director,  
Arkansas Department of Correction

DEFENDANT

**ORDER**

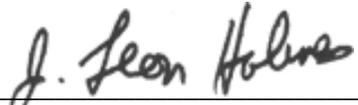
United States Magistrate Judge Joe J. Volpe has submitted proposed findings and recommendations in which he has recommended that Michael Lee Cowan's petition for writ of habeas corpus be dismissed with prejudice and that no certificate of appealability should issue. The Court has reviewed the proposed findings and recommendations, as well as the timely objections filed by Michael Lee Cowan. The Court has also made a *de novo* review of the record. Upon *de novo* review, the proposed findings and recommendations are adopted in their entirety as the findings and decision of this Court.

The Court writes separately to address one objection asserted by Cowan. Cowan asserts that it was improper for the magistrate judge to proceed in this case because he did not give consent. He cites 28 U.S.C. § 636(c)(1) and Fed. R. Civ. P. 73(b) for the proposition that the magistrate judge could not proceed in this case absent his consent. Cowan overlooks 28 U.S.C. § 636(b)(1)(A) and (B), which provide that a district judge may designate a magistrate judge to hear and determine pretrial matters and may also designate a magistrate judge to conduct hearings and submit proposed findings of fact and recommendations. *See also* Fed. R. Civ. P. 72. Pursuant to the statute and the rules of civil procedure, this Court has adopted Local Rule 72.1, a portion of which provides that magistrate judges will review prisoner petitions and submit proposed findings and recommendations.

*See* Local Rule 72.1.VIII.B and C. Because Cowan did not consent to magistrate judge jurisdiction, he was entitled to have a district judge review the proposed findings and recommendations *de novo*, which the undersigned judge has done. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3); Local Rule 72.1.VIII.C. That the magistrate judge proceeded in this case and issued proposed findings and recommendations is consistent with the statute, the rules of civil procedure, and the local rules. *See also* Rule 10 of the Rules Governing Section 2254 Cases in the United States District Courts.

Michael Lee Cowan's petition for writ of habeas corpus is dismissed with prejudice. Because Cowan has failed to make a substantial showing that he was denied a constitutional right, no certificate of appealability will issue.

IT IS SO ORDERED this 9th day of January, 2013.

  
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J. LEON HOLMES  
UNITED STATES DISTRICT JUDGE