

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

KEDRICK TREVON DARROUGH, SR.
ADC #137735

PETITIONER

v.

CASE NO.: 5:13CV00134 SWW/BD

RAY HOBBS,
Director, Arkansas Department of Correction

RESPONDENT

ORDER

The Court has reviewed the Recommended Disposition (“Recommendation”) filed by Magistrate Judge Beth Deere, and has reviewed *de novo* those portions of the Recommendation to which Mr. Darrough objects. Petitioner states he moved for permission to file a second or successive petition in the Eighth Circuit Court of Appeals but has not received an order. A review of the docket sheet shows that the Eighth Circuit received Mr. Darrough’s application on May 23, 2013, after petitioner filed his petition in this Court. The statute requires that an application for permission to file a second or successive petition be filed in the appropriate circuit court before an application for a writ of habeas corpus is filed in the district court. *See* 28 U.S.C. § 2244(b)(3)(A). Petitioner did not comply with the statute.

Therefore, this Court adopts the Recommendation as its own. Kedrick Trevon Darrough’s Petition for Writ of Habeas Corpus (docket entry #1) is dismissed, without prejudice.

When entering a final order adverse to a habeas corpus petitioner, the Court must issue or deny a certificate of appealability. Rule 11 of the Rules Governing Section 2254 Cases. 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, there is no basis for this court to issue a certificate of appealability. Accordingly, a certificate of appealability is denied.

IT IS SO ORDERED this 31st day of May, 2013.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE