

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

WAIMONUSHUN SMITH,  
ADC# 111026

PETITIONER

v.

NO. 5:13CV00224 JLH/BD

RAY HOBBS, Director,  
Arkansas Department of Correction

RESPONDENT

**ORDER**

The Court has reviewed the Recommended Disposition (“Recommendation”) filed by Magistrate Judge Beth Deere. In addition, the Court has considered Mr. Smith’s objections to the Recommendation and has reviewed *de novo* those portions of the Recommendation to which Mr. Smith objects. After careful consideration, this Court adopts the Recommendation, with one exception, as its own. Waimonushun Smith’s petition for writ of habeas corpus is DENIED and dismissed, with prejudice. Document #2.

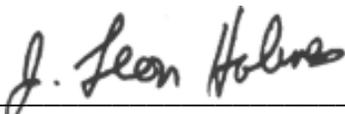
When entering a final order adverse to a habeas corpus petitioner, the Court must issue or deny a certificate of appealability. Rule 11 of the Rules Governing Section 2254 Cases. A certificate of appealability may issue only if a petitioner has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(1)-(2).

The Eighth Circuit Court of Appeals held this to be a “modest standard.” *Randolph v. Kemna*, 276 F.3d 401, 403 n. 1 (8th Cir. 2002) (quoting *Charles v. Hickman*, 228 F.3d 981, 982 n. 1 (9th Cir. 2000)). The United States Supreme Court has stated that this showing is straightforward: The petitioner must demonstrate that reasonable jurists would find the

district court's assessment of the constitutional claims debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484, 120 S. Ct. 1595, 1603 (2000).

The Arkansas Code provides that meritorious good time will not be applied to reduce the term of an inmate's sentence. Ark. Code Ann. § 12-29-201(d). Interpreting this statute, the Supreme Court of Arkansas has held that "Arkansas has not created a liberty interest in good time." *McKinnon v. Norris*, 366 Ark. 404, 408, 231 S.W.3d 725, 730 (2006). That holding conclusively closes the door on Smith's claim that he was denied due process when his good time credits were revoked. No certificate of appealability will be issued.

IT IS SO ORDERED this 8th day of January, 2014.

  
\_\_\_\_\_  
J. LEON HOLMES  
UNITED STATES DISTRICT JUDGE