

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

BARRY LYNN SIMPSON)	
ADC # 106378)	
Petitioner,)	Case No. 5:13-CV-00256 SWW-JTK
)	
v.)	
)	
RAY HOBBS, Director,)	
Arkansas Department of Correction)	
Respondent.)	

ORDER

The Court has received the Proposed Findings and Recommendations from United States Magistrate Judge Jerome T. Kearney. After careful review of the findings and recommendations and the timely objections thereto, as well as a *de novo* review of the record, the Court concludes that the findings and recommendations should be, and are hereby, approved and adopted in their entirety except as to the finding that petitioner's claims are procedurally barred. The Court finds that the procedural default argument, which petitioner makes in light of *Martinez v. Ryan*, 132 S.Ct. 1309 (2012) and *Trevino v. Thaler*, 133 S.Ct. 1911 (2013), need not be consider under the circumstances in this case, where the limitations period has long since expired. *See Henderson v. Hobbs*, 2012 WL 4049222, Eastern District of Arkansas, August 29, 2012 ("The *Martinez* Court did not create, however, a new ground for equitable tolling of the statute of limitations.")

Accordingly, judgment shall be entered dismissing this complaint with prejudice.

The Court will not issue a certificate of appealability because Petitioner has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(1)-(2).

IT IS SO ORDERED this 25th day of September, 2014.

/s/Susan Webber Wright

United States District Judge