

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

JOHNNY SMITH,
ADC #096784

PETITIONER

v.

No. 5:14-cv-26-DPM-JTK

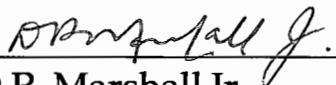
RAY HOBBS, Director, ADC

RESPONDENT

ORDER

Opposed recommendation, *No. 15*, adopted as supplemented. FED. R. CIV. P. 72(b)(3). Smith's petition is time-barred. And he hasn't demonstrated actual innocence. Smith says Carla Holmes and Clifford Gill should have had the opportunity to testify that John Paries III, not Smith, shot the victim. *No. 16 at 1-2*. A jury could reasonably conclude nonetheless that Smith's proximity and association with Paries made him an accomplice to the murder. *Smith v. State*, 310 Ark. 247, 837 S.W.2d 279 (1992). Smith hasn't shown that "it is more likely than not that no reasonable juror would have convicted him[.]" *Schlup v. Delo*, 513 U.S. 298, 327 (1995). Motion, *No. 14*, denied as moot.

So Ordered.



D.P. Marshall Jr.
United States District Judge

13 June 2014