

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

DAVID C. SMITH

PETITIONER

v.

Case No. 5:14-cv-371 KGB-BD

**RAY HOBBS,
Director, Arkansas
Department of Correction**

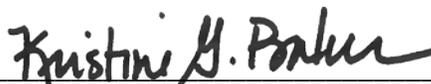
RESPONDENT

ORDER

The Court has received the Recommended Disposition from United States Magistrate Judge Beth Deere (Dkt. No. 9) as well as the reply in support of petition for writ of *habeas corpus* and the objections filed by Petitioner David C. Smith (Dkt. Nos. 10, 11). After carefully reviewing the Recommended Disposition and Mr. Smith's objections, as well as conducting a *de novo* review of the record, the Court approves and adopts in its entirety the Recommended Disposition as this Court's findings in all respects. Therefore, the Court dismisses Mr. Smith's petition for writ of *habeas corpus* and denies the relief requested. The Court dismisses with prejudice Mr. Smith's ineffective assistance of counsel claim and dismisses without prejudice Mr. Smith's claim that the state trial court erred by not following the Arkansas Rules of Criminal Procedure.

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.

SO ORDERED this 14th day of May, 2015.



Kristine G. Baker
United States District Judge