

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

BILLY WAYNE STEWART, SR.,  
ADC #104406

PETITIONER

v.

5:15CV00158-DPM-JJV

WENDY KELLEY, Director,  
Arkansas Department of Correction

RESPONDENT

**ORDER**

In reviewing Mr. Stewart's claims, I find additional briefing on one point is necessary. At sentencing, the prosecutor apparently provided inaccurate argument to the jury that Mr. Stewart would only serve seventy percent of his sentence. (Doc. No. 16 at 518.) The trial court also appears to have incorrectly instructed the jury on this point. (*Id.* at 505.) Mr. Stewart says this argument was inaccurate because, upon entering the ADC, prison officials informed Mr. Stewart, based on his criminal history, he would be required to serve one hundred percent of his sentence. So the inaccurate argument and instruction potentially caused the jury to give him a harsher sentence.

It would be helpful for the parties to provide further briefing on this claim. I would like Respondent to address the merits of this claim by January 15, 2016. Petitioner may reply, if he chooses, by January 25, 2016.

DATED this 7th day of December, 2015.



---

JOE J. VOLPE  
UNITED STATES MAGISTRATE JUDGE