

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

JOSE F. WILLIAMS
ADC #115281

PETITIONER

V. NO. 5:17CV00059-SWW-JTR

WENDY KELLEY, Director,
Arkansas Department of Correction

RESPONDENT

ORDER

The Court has reviewed the Recommended Disposition submitted by United States Magistrate Judge J. Thomas Ray. No objections have been filed. After careful consideration, the Court concludes that the Recommended Disposition should be, and hereby is, approved and adopted in its entirety as this Court's findings in all respects. Judgment will be entered accordingly.

The Court notes that apparently in response to the Magistrate Judge's Recommended Disposition, Williams has filed a motion [doc.#5] for leave to file a successive habeas corpus petition. That motion, however, must be resolved by the United States Court of Appeals of the Eighth Circuit. See 28 U.S.C. § 2244(b)(3)(A) ("Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the

application.”). Accordingly, the Court will direct that the Clerk forward Williams’s motion to the Eighth Circuit for filing.

IT IS THEREFORE ORDERED THAT:

1. Williams’s Motion for Leave to Proceed *In Forma Pauperis* [doc.#1] is GRANTED;
2. The Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 [doc.#2] and the Amended Petition [doc.#3] are DISMISSED, WITHOUT PREJUDICE, so that Williams may seek authorization from the Eighth Circuit Court of Appeals, pursuant to 28 U.S.C. § 2244(b)(3)(A), to file a successive habeas petition; and
3. A Certificate of Appealability is DENIED pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts.
4. The Court directs that the Clerk forward Williams’s motion [doc.#5] for leave to file a successive habeas petition to the United States Court of Appeals for the Eighth Circuit for filing in that Court.¹

DATED this 27th day of April, 2017.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE

¹ Williams’s motion should be termed as a pending motion in this Court.