

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

CHARLES EDWARD GOODWIN
ADC #092509

PETITIONER

v.

No. 5:17-cv-182-DPM

WENDY KELLEY, Director,
Arkansas Department of Correction

RESPONDENT

ORDER

1. Last fall, Goodwin belatedly objected to Magistrate Judge Harris's Order denying his early motion for discovery. *No* 4, 5 & 9; FED. R. CIV. P. 72(a). Goodwin's objection was mistakenly docketed as a response. *No* 9. The Court overlooked it. The Court therefore vacates its 28 March 2018 Order and Judgment. *No* 28 & *No* 29. Goodwin's application for a stay of the Judgment, *No* 30, is denied as moot.

2. Goodwin's September 2017 objection was untimely—late by about a month. On its merits, Magistrate Judge Harris didn't clearly err or misapply the law in denying—without prejudice—Goodwin's motion at the threshold of this case for his state discovery file. *No* 5; FED. R. CIV. P. 72(a); *Bracy v. Gramley*, 520 U.S. 899, 908–09 (1997). Goodwin's objection to that Order, *No* 9, is overruled.

3. Goodwin renewed his discovery request in his objections to the recommendation, *No 26 at 3-4*. That renewed request is entitled to another look. The Court therefore refers this case back to Magistrate Judge Harris to consider Goodwin's renewed request. Since Goodwin's initial motion, the State has filed the trial record, plus some appellate opinions, and Goodwin has amended his petition. *No 10, 18, 19 & 20*. An updated discovery request may therefore be needed. The Court leaves that issue in Magistrate Judge Harris's hands. The deeper questions are these: Is Goodwin entitled to discovery? If so, should any new material beyond the current record be provided to Goodwin or reviewed *in camera*? And does any discovery allowed affect the suggested disposition of Goodwin's *habeas* petition? The Court would appreciate a supplemental or amended recommendation in due course.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

11 April 2018