IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,

Plaintiff, : Case No. 3:09-cr-181

- vs -

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

ELMO BAILEY,

Defendant. :

ORDER ADOPTING REPORT AND RECOMMENDATIONS

The Court has reviewed the Report and Recommendations of Magistrate Judge Michael R. Merz (ECF No. 96), to whom this case was referred pursuant to 28 U.S.C. § 636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby ADOPTS said Report and Recommendations.

Accordingly, it is hereby ORDERED that the Defendant's Motion to Vacate (ECF No. 94) is DISMISSED with prejudice. Defendant is DENIED any requested certificate of appealability and the Court hereby certifies to the United States Court of Appeals that an appeal would be objectively frivolous and therefore should not be permitted to proceed in forma pauperis.

July 22, 2016.

Walter Herbert Rice
United States District Judge

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