

**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-072

Also 3:11-cv-123

-vs-

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

:

ROGER MATHEWS, JR.,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATIONS

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. No. 68), 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) expired on December 5, 2011, hereby ADOPTS said Report and Recommendations.

It is therefore ORDERED that the Motion to Vacate Under 28 U.S.C. § 2255 is GRANTED and the clerk shall enter judgment accordingly. Defendant will be re-sentenced under the Fair Sentencing Act.

December 6, 2011.

**s/THOMAS M. ROSE*

Thomas M. Rose
United States District Judge