

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

ROBERT E. MOSS,

Petitioner,

-vs-

WARDEN, Lebanon Correctional
Institution,

Respondent.

:

Case No. 1:09-cv-280

:

District Judge Michael R. Barrett
Magistrate Judge Michael R. Merz

:

ORDER STRIKING OBJECTIONS TO REPORT AND RECOMMENDATIONS

Petitioner Robert Moss has filed Objections (Doc. No. 28) to the Magistrate Judge’s Supplemental Report and Recommendations (Doc. No. 23). His Certificate of Service indicates he mailed the Objections to the Attorney General’s Office on September 19, 2010; presumably they were mailed to the Clerk on the same date, although they were not received and docketed until September 29, 2010. Under *Houston v. Lack*, 487 U.S. 266 (1988), prisoner papers are deemed filed on the date of mailing.

Mr. Moss’ objections were originally due by August 19, 2010. On August 10, he requested an extension to September 20, 2010, but was only granted an extension to August 31, 2010. Therefore his Objections are untimely and are stricken on that basis.

Furthermore, the Objections are untimely because Judge Barrett has already adopted the Supplemental Report and Recommendations and entered judgment in the case.

Petitioner is advised that his time to appeal will expire on October 16, 2010. Judge Barrett

has already denied leave to appeal *in forma pauperis* and a certificate of appealability.

September 30, 2010.

s/ **Michael R. Merz**
United States Magistrate Judge