

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

Thomas Cox, :
Petitioner(s), : Case Number: 1:10cv117
vs. : Chief Judge Susan J. Dlott
Warden, Pickaway Correctional Institution, :
Respondent(s). :
:

ORDER

The Court has reviewed the Report and Recommendation of United States Magistrate Judge Michael R. Merz filed on April 26, 2011 (Doc. 13), 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 May 11, 2011, hereby ADOPTS said Report and Recommendation.

Accordingly, due to the fact that Petitioner Cox procedurally defaulted in presenting his ineffective assistance of appellate counsel claims to the state courts, this Court cannot reach the merits of those claims and they must be dismissed.

Therefore, it is **ORDERED** that the petition herein is **DISMISSED** with prejudice. Since reasonable jurists will not disagree with this conclusion, petitioner is **DENIED** leave to appeal *in forma pauperis* and any request for a certificate of appealability.

IT IS SO ORDERED.

s/Susan J. Dlott
Chief Judge Susan J. Dlott
United States District Court