

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

MARK THORNTON

Petitioner,

-v-

STATE OF OHIO

Respondent.

Case No. C-3:10-cv-236

Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

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**ENTRY AND ORDER OVERRULING THORNTON'S OBJECTIONS  
(Doc. #27) TO THE MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATIONS; ADOPTING THE MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATIONS ON THORNTON'S MOTION TO  
REOPEN THE JUDGMENT (Doc. #26) IN ITS ENTIRETY; AND  
DENYING THORNTON'S MOTION TO REOPEN**

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This matter comes before the Court pursuant to pro se Petitioner Mark Thornton's ("Thornton's") Objections (doc. #27) to Magistrate Judge Michael R. Merz's Report and Recommendations on Thornton's Motion To Reopen the Judgment (doc. #26). On June 28, 2011, Magistrate Judge Michael R. Merz filed the Report and Recommendations (doc. #26) and Thornton objected (doc. #27). The time has run and the Warden has not responded to Thornton's objections. Thornton's objections are, therefore, ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Thornton's Objections to the Magistrate Judge's Report and Recommendations on Thornton's Motion To Reopen the Judgment are not well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and Recommendations is adopted in its entirety.

Thornton's Motion To Reopen Judgment (doc. #25) is DENIED. This Court has already

determined that its final decision would not be debatable among reasonable jurists and has denied a certificate of appealability. Thus an appeal would be without merit.

**DONE and ORDERED** in Dayton, Ohio, this Twenty-Ninth Day of July, 2011.

**s/Thomas M. Rose**

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record  
Mark Thornton at his last address of record