

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

JOSHUA JEROME HAYWARD                    §  
VS.    §                   CIVIL ACTION NO. 1:09cv846  
UNITED STATES OF AMERICA                §

MEMORANDUM ORDER ADOPTING THE MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION

Joshua Jerome Hayward, proceeding *pro se*, filed the above-styled motion to vacate, set aside or correct sentence. The court referred the matter to the Honorable Earl S. Hines, United States Magistrate Judge, for consideration pursuant to applicable orders of this court.

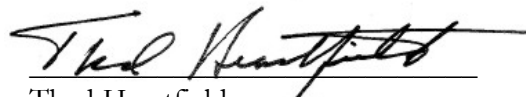
The United States has filed a motion to dismiss. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge recommending the motion be denied.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the records, pleadings and all available evidence. No objections to the Report and Recommendation were filed by the parties.

ORDER

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. The motion to dismiss is **DENIED**. The United States shall file a response addressing the merits of the motion to vacate within 30 days of the date set forth below.

**SIGNED** this the 7 day of **April, 2010**.

  
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Thad Heartfield  
United States District Judge