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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

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|---|---|---|
| THEODIS LYNN BARRETT | § | |
| v. | § | CIVIL ACTION NO. 6:16cv1104<br>Crim. No. 6:06cr82(1) |
| UNITED STATES OF AMERICA | § | |

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Movant Theodis Lynn Barrett, proceeding *pro se*, filed this motion to vacate or correct his sentence under 28 U.S.C. §2255, complaining of the validity of his conviction. This Court ordered that the matter be referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

The Government answered the petition and acknowledged that Barrett was entitled to relief pursuant to Johnson v. United States, 135 S.Ct. 2551 (2015). The Magistrate Judge issued a Report recommending that Barrett's motion to vacate or correct his sentence be granted and that Barrett be re-sentenced. No objections have been filed. It is accordingly

**ORDERED** that the Movant Theodis Barrett's motion to vacate or correct sentence is **GRANTED** to the extent that the sentence imposed in United States v. Barrett, Criminal Action No. 6:06cr82, is **VACATED** and the Movant shall be re-sentenced. It is further

**ORDERED** that any and all motions which may be pending in this civil action are hereby **DENIED.**

**SIGNED this 14th day of June, 2017.**

Robert W Schroeder III

ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE

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