

MANDATE

W.D.N.Y.
22-cv-6510
Geraci, J.

United States Court of Appeals FOR THE SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 1st day of March, two thousand twenty-four.

Present:

Amalya L. Kearse,
Barrington D. Parker,
Myrna Pérez,
Circuit Judges.

James Kendrick,

Petitioner-Appellant,

v.

23-6748

United States of America,

Respondent-Appellee.

Appellant, pro se, moves for leave to file an oversized motion for a certificate of appealability, a certificate of appealability, appointment of counsel, to sever issues from the motion for a certificate of appealability, and for leave to proceed in forma pauperis. Upon due consideration, it is hereby ORDERED that the motion to file an oversized motion for a certificate of appealability is GRANTED. It is further ORDERED that the motions for a certificate of appealability and for appointment of counsel are DENIED and the appeal of the 28 U.S.C. § 2255 denial is DISMISSED because Appellant has not “made a substantial showing of the denial of a constitutional right” as to his motion for a certificate of appealability. 28 U.S.C. § 2253(c); *see also Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

It is further ORDERED that the motions to sever and to proceed in forma pauperis are DENIED and the appeal of the denial of the motions to vacate under Fed. R. Crim. P. 33 and for recusal under 28 U.S.C. § 455 is dismissed because it “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *see also* 28 U.S.C. § 1915(e).

FOR THE COURT:

Catherine O’Hagan Wolfe, Clerk of Court

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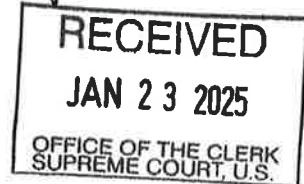
Catherine O’Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

Catherine O'Hagan Wolfe



Catherine O'Hagan Wolfe



MANDATE ISSUED ON 10/17/2024

**UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT**

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 10th day of October, two thousand twenty-four.

James Kendrick,

Petitioner - Appellant,

v.

United States of America,

Respondent - Appellee.

ORDER


Docket No: 23-6748

Appellant, James Kendrick, filed a motion for panel reconsideration, or, in the alternative, for reconsideration *en banc*. The panel that determined the appeal has considered the request for reconsideration, and the active members of the Court have considered the request for reconsideration *en banc*.

IT IS HEREBY ORDERED that the motion is denied.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk


Catherine O'Hagan Wolfe

