

**DLD-181**

**April, 19, 2018**

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

C.A. No. **17-3261**

UNITED STATES OF AMERICA

VS.

KADEEM THOMAS, Appellant

(D.V.I. Crim. No. 3:12-cr-00002)

Present: JORDAN, SHWARTZ and KRAUSE, Circuit Judges

Submitted is Appellant's document titled "Petition for Writ of Certiorari or in the Alternative Writ of Mandamus," treated as a notice of appeal, which may be construed as a request for a certificate of appealability under 28 U.S.C. § 2253(c)(1)

in the above-captioned case.

Respectfully,

Clerk

**ORDER**

Appellant's request for a certificate of appealability is denied. See 28 U.S.C. § 2253(c)(2). The District Court denied Appellant's motion to vacate his sentence pursuant to 28 U.S.C. § 2255, in which he claimed, among other things, that trial and appellate counsel was ineffective for failing to raise and preserve a challenge to his sentence under Alleyne v. United States, 133 S. Ct. 2151 (2013). Jurists of reason would not debate the District Court's denial of this claim or the other claims that Appellant raised in his § 2255 proceeding. See Strickland v. Washington, 466 U.S. 668, 687 (1984); Miller-El v. Cockrell, 537 U.S. 322, 336 (2003).

By the Court,

s/Patty Shwartz  
Circuit Judge

Dated: April 30, 2018  
MB/cc: Kadeem Thomas  
Kim L. Chisholm, Esq.



A True Copy:

*Patricia S. Dodsweat*

Patricia S. Dodsweat, Clerk  
Certified Order Issued in Lieu of Mandate

UNITED STATES COURT OF APPEALS  
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UNITED STATES OF AMERICA

v.

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Appellant

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(D.V.I. No. 3-12-cr-00002-003)

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SUR PETITION FOR REHEARING

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Present: SMITH, Chief Judge, McKEE, AMBRO, CHAGARES, JORDAN,  
HARDIMAN, GREENAWAY, JR., VANASKIE, SHWARTZ, KRAUSE, RESTREPO,  
and BIBAS, Circuit Judges

The petition for rehearing filed by appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the

circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,

s/Patty Shwartz  
Circuit Judge

Dated: July 9, 2018

cc:

Kim L. Chisholm, Esq.  
Kadeem Thomas