

BLD-242

June 21, 2018

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 18-1055

UNITED STATES OF AMERICA

v.

ERIC HAYES, Appellant

(M.D. Pa. No. 05-cr-00443)

~~Present: RESTREPO, BIBAS, and NYGAARD, Circuit Judges~~

Submitted are:

- (1) By the Clerk for possible dismissal due to a jurisdictional defect; and
- (2) Appellant's application for a certificate of appealability under 28 U.S.C. § 2253(c)(1)

in the above-captioned case.

Respectfully,

Clerk

ORDER

Because the District Court granted Hayes' motion for an extension of time to appeal, we have jurisdiction to consider his request for a certificate of appealability. The request is denied because jurists of reason would not debate the District Court's determination that Hayes' claims lack merit. See 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336 (2003). In particular, Hayes has not shown that the District Court arguably erred in determining that neither his trial, nor his appellate counsel rendered ineffective assistance. See Strickland v. Washington, 466 U.S. 668, 687 (1984). Reasonable jurists would not debate the District Court's determination that his convictions were not obtained in violation

of the Double Jeopardy Clause. See Blockburger v. United States, 284 U.S. 299, 304 (1932); United States v. Barrington, 806 F.2d 529, 535 (5th Cir. 1986).

By the Court,

s/Stephanos Bibas
Circuit Judge

Dated: July 6, 2018

CJG/cc: Eric Hayes
Daryl F. Bloom, Esq.
Stephen R. Cerutti, II, Esq.
James T. Clancy, Esq.
Kate L. Mershimer, Esq.



A True Copy:

Patricia A. Dodszeit

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

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 18-1055

UNITED STATES OF AMERICA

v.

ERIC HAYES
also known as International Ross,
also known as Ross

Eric Hayes,

Appellant

(M.D. Pa. No. 1:05-cr-00443-009)

SUR PETITION FOR REHEARING

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

The petition for rehearing filed by appellant in the above-captioned 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

* Judge Nygaard's vote is limited to panel rehearing only.

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/Stephanos Bibas
Circuit Judge

Dated: August 9, 2018
CLW/cc: Mr. Eric Hayes

**Additional material
from this filing is
available in the
Clerk's Office.**