

SUPREME COURT OF THE UNITED STATES  
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WASHINGTON, DC 20543-0001

CASE NO: 17-2521  
2-13-CR-00135-001  
2-15-CV-01603

August 25, 2018

UNITED STATES OF AMERICA  
Plaintiff-Appellee,  
v.  
CHARLES HOWARD, III  
Defendant-Appellant.

MOTION TO DIRECT CLERK TO FILE  
PETITION OUT OF TIME

NOW COMES, CHARLES HOWARD, III, hereinafter, as Charles Howard III, Pro-se, moves this Honorable Court to direct the Clerk to file Petition out of time. The petitioner's above entitled petition for a Writ Of Certiorari was returned as out of time (see copy attached), because the petition was due on or before March 21, 2018, but was postmarked May 23, 2018. Petitioner posits that due to the Continuos Institutional Lockdowns, he was unable to meet the expected deadline.

Respectfully submitted this 25th Day of August, 2018

*/s/ Charles Howard III 34163-068*

CHARLES HOWARD III, 34163-068  
USP HAZELTON, P.O.BOX 2000  
BRUCETON MILLS, WV. 26525

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OFFICE OF THE CLERK  
SUPREME COURT, U.S.

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 17-2521

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UNITED STATES OF AMERICA

v.

CHARLES HOWARD, III,  
Appellant

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(D.C. Crim. No. 2-13-cr-00135-001)  
(D.C. Civ. No. 2-15-cv-01603)

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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,  
SCIRICA\*, 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

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\*As to panel rehearing only.

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/Anthony J. Scirica  
Circuit Judge

Dated: December 21, 2017  
sb/cc: Rebecca Haywood, Esq.  
Charles Howard, III

BLD-363

September 28, 2017

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

C.A. No. 17-2521

UNITED STATES OF AMERICA

VS.

CHARLES HOWARD, III, Appellant

(W.D. Pa. Crim. No. 2:13-cr-00135-001 & Civ. No. 2:15-cv-01603)

Present: AMBRO, GREENAWAY, JR. and SCIRICA, Circuit Judges

Submitted are:

- (1) Appellant's request for a certificate of appealability under 28 U.S.C. § 2253(c)(1); and
- (2) Appellant's motion for appointment of counsel

in the above-captioned case.

Respectfully,

Clerk

MMW/JDM/jk

ORDER

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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 counsel was ineffective for failing to challenge whether his prior Pennsylvania drug convictions qualified as serious drug offenses under the Armed Career Criminal Act, 18 U.S.C. § 924(e). Jurists of reason would not debate whether trial counsel's performance was deficient or whether Appellant was prejudiced by counsel's performance, such that there was a reasonable probability of a different result. See Strickland v. Washington, 466

U.S. 668, 687 (1984); Miller-El v. Cockrell, 537 U.S. 322, 336 (2003). Jurists of reason also would not debate the District Court's denial of Appellant's remaining claims. Appellant's motion for the appointment of counsel is denied.

By the Court,

s/Anthony J. Scirica  
Circuit Judge

Dated: October 20, 2017

JK/cc: Rebecca R. Haywood, Esq.  
Charles Howard, III



A True Copy

*Marcia M. Waldron*

Marcia M. Waldron, Clerk  
Certified order issued in lieu of mandate.

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