

DLD-048

November 21, 2019

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **19-2165**

UNITED STATES OF AMERICA

v.

BAWER AKSAL, Appellant

(D.N.J. Cr. No. 2-12-cr-00577-001)

Present: RESTREPO, PORTER, and NYGAARD, Circuit Judges

Submitted are:

- (1) By the clerk for possible summary action under 3rd Cir. L.A.R. 27.4 and Chapter 10.6 of the Court's Internal Operating Procedures;
- (2) Appellant's notice of appeal, which may be construed as a request for a certificate of appealability under 28 U.S.C. § 2253(c)(1); and
- (3) Appellant's brief, treated as argument in support of the appeal

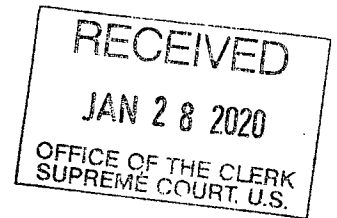
in the above-captioned case.

Respectfully,

Clerk

ORDER

Aksal's application for a certificate of appealability is denied. See 28 U.S.C. § 2253(c). Jurists of reason would agree without debate that Aksal's motion for audio recordings was, in essence, a 28 U.S.C. § 2255 motion that the District Court was required to stay and then dismiss for lack of jurisdiction upon the conclusion of the appellate proceedings concerning Aksal's first § 2255 motion. See United States v. Santarelli, 929 F.3d 95, 104–05 (3d Cir. 2019); Blystone v. Horn, 664 F.3d 397, 413 (3d Cir. 2011); Robinson v. Johnson, 313 F.3d 128, 139–40 (3d Cir. 2002). Jurists of reason would likewise agree that his claim fails on the merits for essentially the reasons provided



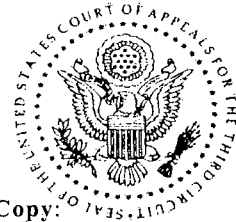
Ex. A

by the District Court. See Smith v. U.S. Dist. Ct. Officers, 203 F.3d 440, 442 (7th Cir. 2000).

By the Court,

s/ L. Felipe Restrepo
Circuit Judge

Dated: December 9, 2019
Tmm/cc: Mark E. Coyne, Esq.
Bawer Aksal



A True Copy:

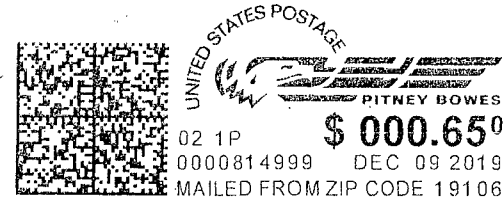
Patricia S. Dodszeit

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

Ext. B

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