

# Appendix

S.D.N.Y. – N.Y.C.  
16-cv-4186  
Marrero, J.

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

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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 19<sup>th</sup> day of November, two thousand twenty.

Present:

John M. Walker, Jr.,  
Robert A. Katzmann,  
Richard C. Wesley,  
*Circuit Judges.*

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Earl Malloy,

*Petitioner-Appellant,*

v.

20-1561

United States of America,

*Respondent-Appellee.*


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Appellant, incarcerated, moves for a certificate of appealability (“COA”) and for affirmance of the district court’s denial of his motion to amend his prior petition to vacate his conviction. Upon due consideration, it is hereby ORDERED that the motion is DENIED and the appeal is DISMISSED because Appellant has not “made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c); *see also Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

Declining to issue a COA in this instance does not foreclose Appellant’s opportunity for further review. The Supreme Court has jurisdiction to review the decision of a court of appeals to deny a COA. *See Hohn v. United States*, 524 U.S. 236, 241–48 (1998).

FOR THE COURT:

Catherine O’Hagan Wolfe, Clerk of Court

**Pet. App. 1a**