

## **APPENDIX**

## APPENDIX A

Supreme Court of the United States  
Office of the Clerk  
Washington, DC 20543-0001

Scott S. Harris  
Clerk of the Court  
(202) 479-3011

December 6, 2021

Clerk  
United States Court of Appeals for the Ninth Circuit  
95 Seventh Street  
San Francisco, CA 94103-1526

Re: Ebenezer K. Howe, IV  
v. United States  
No. 21-628  
(Your No. 21-35682)

Dear Clerk:

The Court today entered the following order in the  
above-entitled case:

The petition for a writ of certiorari before judgment is  
denied.

Sincerely,

*Scott S. Harris*

Scott S. Harris, Clerk

**APPENDIX B**

**United States Court of Appeals  
For The Ninth Circuit**

**No. 21-35682**

**D.C. No.  
2:19-cv-00421-DCN-CWD  
District of Idaho  
Boise**

**UNITED STATES OF AMERICA,  
Plaintiff-Appellee,**

**v.**

**EBENEZER K. HOWE IV,  
Defendant-Appellant,**

**and**

**PHI DEVELOPMENT LLC,  
Defendant.**

**ORDER**

**Before:  
O'SCANNLAIN, THOMAS, and TALLMAN,  
Circuit Judges.**

A review of the record demonstrates that this court lacks jurisdiction over this appeal because the August 9, 2021 order challenged in the appeal is not final or appealable. *See* 28 U.S.C. § 1291; *United States v. Washington*, 573 F.2d 1121, 1122 (9th Cir. 1978) (order denying motion to disqualify judge is not final or appealable); *Branson v. City of Los Angeles*, 912 F.2d 334, 336 (9th Cir. 1990) (denial of reconsideration of non-appealable order is itself not appealable). Consequently, appellee's motion to dismiss this appeal for lack of jurisdiction (Docket Entry No. 3) is granted.

The government's request for a pre-filing review order barring appellant from filing further interlocutory appeals or writs arising from the above referenced district court action is denied. However, appellant is advised that further frivolous interlocutory appeals or writs arising from the same district court action may result in sanctions, including a pre-filing review order.

All other requests are denied.

DISMISSED.