

APPENDIX A

*AMENDED BLD-342

September 21, 2017
August 24, 2017

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 17-1979

JAMES MELVIN SMITH

vs.

SECRETARY PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL.

(E.D. PA CIV. NO. 13-CV-02410)

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

Submitted are:

- (1) Appellant's application for a certificate of appealability under 28 U.S.C. § 2253(c)(1);
- (2) Appellant's application to accept noncompliant filing;
- (3) Appellees' response in opposition to issuance of a certificate of appealability;
- (4) Appellant's motion for an extension of time to reply; and
- *(5) Appellant's reply, filed on 9/20/17**

in the above captioned case.

Respectfully,

Clerk

MMW/LLB/tyw

ORDER

Appellant's motion to exceed the page limit is granted. Appellant's application for a certificate of appealability is denied. For substantially the reasons given by the Magistrate Judge, appellant has not made a substantial showing of the denial of a constitutional right nor shown that reasonable jurists would find the correctness of the

procedural aspects of the District Court's determination, including that discovery and an evidentiary hearing were unwarranted, debatable. See 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Appellant's motion for a 30-day extension of time to reply to the Commonwealth's response is granted.

By the Court,

s/Anthony J. Scirica
Circuit Judge

Dated: October 13, 2017
tyw/cc: Chisti A. Charpentier, Esq.
Joshua S. Goldwert, Esq.



A True Copy

Marcia M. Waldron

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