

refreshed petition may be filed should Battles ultimately fail in state court.

Conclusion

For the reasons set forth above, the petition for a writ of habeas corpus is dismissed without prejudice.

The Clerk of Court is ordered to close this case.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

**Dated: Brooklyn, New York
November 12, 2013**

/S/ Judge Eric N. Vitaliano

ERIC N. VITALIANO
United States District Judge