

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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:  
DONOVAN GRANT, :  
Petitioner :  
:  
- against - :  
:  
UNITED STATES OF AMERICA :  
----- X

**ORDER DENYING CERTIFICATE  
OF APPEALABILITY**

23 Civ. 5592 (AKH)  
21 Cr. 655 (AKH)


ALVIN K. HELLERSTEIN, U.S.D.J.:

The Second Circuit has asked for a clarification of my Order of August 28, 2024. In an Order of August 10, 2023, ECF No. 3, I denied Petitioner Donovan Grant’s 28 U.S.C. § 2255 petition for a writ of habeas corpus. I also held that Defendant had “not made a substantial showing of the denial of a constitutional right” and declined to issue a certificate of appealability. Mr. Grant filed an untimely notice of appeal of that Order, but because he alleged that he had not received my August 10, 2023 Order when it was initially mailed to him, the Second Circuit directed me to construe the notice of appeal as a motion to either extend the time to appeal or reopen the time to appeal.

In my August 28, 2024 Order, I construed the notice of appeal as a motion to extend the time to appeal under Fed. R. App. P. 4(a)(5) and granted that motion. I then declined to issue a certificate of appealability. I previously held, and hold again now, that Mr. Grant has “not made a substantial showing of the denial of a constitutional right.” *See* 28 U.S.C. § 2253(c)(2); *see also Slack v. McDaniel*, 529 U.S. 473, 478 (2000).

SO ORDERED:

Dated: January 18, 2025  
New York, New York

  
ALVIN K. HELLERSTEIN  
United States District Judge