

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 17-3082**

**September Term, 2017**

**1:03-cr-00533-BAH-1**

**Filed On: March 15, 2018**

United States of America,

Appellee

v.

Carlos Curtis,

Appellant

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**BEFORE:** Rogers, Griffith, and Kavanaugh, Circuit Judges

**J U D G M E N T**

This appeal was considered on the record from the United States District Court for the District of Columbia and on the brief filed by appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing and the motions for appointment of counsel and for modification of detention, it is

**ORDERED** that the motion for appointment of counsel be denied. The interests of justice do not warrant appointment of counsel in this case. See 18 U.S.C. § 3006A(a)(2)(B). It is

**FURTHER ORDERED AND ADJUDGED** that the district court's order filed October 18, 2017, be affirmed. The district court correctly determined that appellant's petition raised substantially similar claims as his prior § 2255 motion, and the writ of audita querela is not available in cases within the ambit of 28 U.S.C. § 2255. See United States v. Ayala, 894 F.2d 425, 428-30 (D.C. Cir. 1990) (the only circumstances, if any, in which the writ could furnish a basis for vacating a federal criminal conviction would be if a defendant raises "a legal objection not cognizable under existing federal postconviction remedies"). The writ may not be used to circumvent the limitations on filing § 2255 motions. See United States v. Kimberlin, 675 F.2d 866, 869 (7th Cir. 1982), cited in Ayala, 894 F.2d at 428-29. Nor may it be used to avoid the Supreme Court's decision in Beckles v. United States, 137 S. Ct. 886 (2017). It is

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**FURTHER ORDERED** that the motion for modification of detention be dismissed as moot.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

**Per Curiam**