

**DISTRICT OF COLUMBIA COURT OF APPEALS**

No. 07-CF-401

REGINALD D. LAMPKINS,

Appellant,

F11596-06

v.

UNITED STATES,

Appellee.

BEFORE: Terry, Schwelb and King, Senior Judges.

**O R D E R**

(Filed October 1, 2009)

Amicus Curiae the Public Defender Service has moved this court to vacate its order directing that this court's decision affirming appellant's convictions, originally issued as an unpublished Memorandum Opinion and Judgment, be reissued as a published opinion. Amicus contends that certain language in our opinion is not in conformity with this court's prior case law. Specifically, amicus takes issue with language in the last paragraph of our opinion suggesting that our decision in *Wilson-Bey v. United States*, 903 A.2d 818 (D.C. 2006) (en banc), disapproving the "Redbook" aiding and abetting jury instruction in premeditated murder cases, has no application to general intent crimes.

Our decision affirming the judgment in this case has already been published, *see Lampkins v. United States*, 973 A.2d 171 (D.C. 2009) (*Lampkins I*), and we do not believe that setting aside our order directing publication is an appropriate remedy. In *Wheeler v. United States*, No. 05-CF-716, slip op. at 22 n.34 (D.C. Aug. 13, 2009), however, the court described the language in *Lampkins I* to which amicus objects, *see* 973 A.2d at 174, as "not binding" because this court had previously applied the holding in *Wilson-Bey* to certain general intent offenses.<sup>1</sup> We agree with and accept the position in *Wheeler* that the *Wilson-Bey* ruling is not automatically inapplicable to every general intent crime. Reconsideration of the order directing publication is unnecessary, and the motion is denied.

PERCURIAM.

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<sup>1</sup> In the present case, there was no objection to the instruction, and Lampkins has not demonstrated plain error.

