

# United States Court of Appeals

For the Seventh Circuit  
Chicago, Illinois 60604

January 14, 2013

*By the Court:*

No. 11-1683

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

*v.*

CHRISTOPHER L. SPEARS,  
*Defendant-Appellant.*

Appeal from the  
United States District Court for the  
Northern District of Indiana,  
Hammond Division.

No. 2:10cr55-001

Rudy Lozano,  
*Judge.*

## ORDER

The petition for rehearing en banc is **GRANTED**. The panel's opinion and judgment are **VACATED**. The parties shall file new briefs addressing the following question:

Does the crime of aggravated identity theft as defined in 18 U.S.C. § 1028A(a)(1) require a theft or other misappropriation of another person's identifying information when the prosecution relies only on the "knowing transfer" part of the statute?

In addition to any other statutory language that bears on the question, the parties should specifically address the meaning of the phrases "without lawful authority" and "means of identification of *another person*." The parties should also address the effect, if any, of the Supreme Court's decision in *Flores-Figueroa v. United States*, 556 U.S. 646 (2009), on this question.

**IT IS FURTHER ORDERED** that briefing will proceed as follows:

1. The opening brief of defendant-appellant Christopher Spears is due on or before February 11, 2013.

2. The responsive brief of plaintiff-appellee the United States is due on or before March 13, 2013.

3. The reply brief is due on or before March 27, 2013.

Counsel should submit thirty-five (35) copies of all briefs, appendices, and citations of additional authority.

Oral argument will be scheduled by separate order.