

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

December 20, 2023

By the Court:

No. 21-3221

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

ROYEL PAGE ,
Defendant-Appellant.

Appeal from the United States District
Court for the Eastern District of
Wisconsin.

No. 2:17-cr-00175-MYS-9

Michael Y. Scudder,
*Circuit Judge.**

ORDER

The court has voted sua sponte to rehear this appeal en banc. Accordingly, the panel opinion of August 4, 2023, is vacated, and the court will set an argument date by separate order.

The court has also decided that supplemental briefs would assist in its consideration of the case. The parties shall each file supplemental briefs of up to 7,000 words addressing the following question, in addition to any other points they wish to raise: Whether the trial judge plainly erred in failing to sua sponte provide a buyer-seller instruction. In answering this question, counsel should address whether the record reflects presentation of a buyer-seller theory and the role of the party-presentation principle in the district court. The parties' briefs should address how *United States v. Olano*, 507 U.S. 725 (1993), *United States v. Sineneng-Smith*, 140 S. Ct. 1575 (2020), *Greer v. United States*, 141 S. Ct. 2090 (2021), *United States v. Douglas*, 818 F.2d 1317 (7th Cir. 1987), *United States v. Thomas*, 150 F.3d 743 (7th Cir. 1998), *United States v. Gee*, 226 F.3d 885 (7th Cir. 2000), and *United States v. Cruse*, 805 F.3d 795 (7th Cir. 2015), affect these questions.

Thirty (30) copies of the supplemental briefs must be submitted to the Clerk's Office by January 19, 2024. Counsel must also re-submit to the Clerk's Office thirty (30) copies of all briefs, appendices, supplemental authority, and any other materials filed for the original argument by that date.

* Of the United States Court of Appeals for the Seventh Circuit, sitting by designation. Judge Scudder did not participate in the court's vote on rehearing this appeal en banc.