

FILED: September 14, 2018

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 17-4037  
(7:13-cr-00110-F-1)

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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

ERICK JEMONTA GIBBS

Defendant - Appellant

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O R D E R

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Appellant filed a petition for panel rehearing and rehearing en banc.

On the petition for panel rehearing, Judge Niemeyer and Judge Agee voted to deny rehearing, and Chief Judge Gregory voted to grant rehearing.

On a poll of the court requested by a judge, the majority of active judges voted to deny the appellant's petition for rehearing en banc. Judges Wilkinson, Niemeyer, Motz, Traxler, Duncan, Agee, Keenan, Diaz, Floyd, Thacker, Harris and Richardson voted to

deny rehearing en banc; Chief Judge Gregory and Judge King voted to grant rehearing en banc; and Judge Wynn voted to vacate the panel opinion.\* Opinions supporting the order and dissenting from it will be filed later.

Entered at the direction of Judge Niemeyer.

For the Court

/s/ Patricia S. Connor, Clerk

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\* The requested poll was completed before Judge Traxler took senior status on August 31, 2018. Judge Quattlebaum, who was commissioned as a circuit judge on September 4, 2018, and was advised of the poll, stated that to the extent his vote is required, he votes to deny rehearing en banc.