

FILED

AUG 23 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

V.

ALPHONSO KINZAR CARTY,

Defendant - Appellant.

No. 05-10200

D.C. No. CR-03-01135-RGS

District of Arizona,

Phoenix

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

V.

JUAN ANTONIO ZAVALA,

Defendant - Appellant.

No. 05-30120

D.C. No. CR-02-00079-12-BLW

District of Idaho

ORDER

Before: SCHROEDER, Chief Judge.

Upon the vote of a majority of nonrecused regular active judges of this court, it is ordered that these cases be reheard by the en banc court pursuant to Circuit Rule 35-3. The three-judge panel opinions shall not be cited as precedent by or to this court or any district court of the Ninth Circuit, except to the extent adopted by the en banc court.

These matters are consolidated for purposes of en banc rehearing.