

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA, <i>Plaintiff-Appellee,</i>  v.  GUILLERMO AGUILA-MONTES DE OCA, <i>Defendant-Appellant.</i>
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No. 05-50170  
D.C. No.  
CR-04-02175-RTB  
ORDER

Filed February 3, 2010

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**ORDER**

KOZINSKI, Chief Judge:

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