

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

TIMOTHY LEE BYRD, <i>Petitioner-Appellant,</i> v. GAIL LEWIS; ATTORNEY GENERAL FOR THE STATE OF CALIFORNIA, <i>Respondents-Appellees.</i>

No. 06-15977
D.C. No.
CV-02-02013-MCE
Eastern District
of California,
Sacramento
ORDER

Filed June 10, 2008

Before: J. Clifford Wallace and Johnnie B. Rawlinson,
Circuit Judges, and Jane A. Restani,* Judge.

ORDER

Submission of this case is WITHDRAWN and DEFERRED pending the Supreme Court's decision in *Pulido v. Chrones*, 487 F.3d 669 (9th Cir. 2007 (per curiam), cert. granted, 128 S. Ct. 1444 (2008)). The Court's framing of the question presented in *Pulido* suggests that the opinion will clarify how *Neder v. United States*, 527 U.S. 1 (1999), applies to all defective jury instructions.

The opinion filed on December 11, 2007, published at 510 F.3d 1045, is WITHDRAWN. It may not be cited as precedent by or to this court or any district court of the Ninth Circuit until further order of the Court.

*The Honorable Jane A. Restani, Chief Judge, United States Court of International Trade, sitting by designation.

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