

FOR PUBLICATION

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

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

DMITRY FOMICHEV,
Defendant-Appellant.

No. 16-50227

D.C. No.
2:13-cr-00185-
SVW-1

ORDER

Filed November 30, 2018

Before: Kim McLane Wardlaw, Morgan Christen,
and John B. Owens, Circuit Judges.

ORDER

The government’s motion for an extension of time to file a petition for rehearing, filed on September 27, 2018, is **GRANTED**.

The opinion filed on August 8, 2018, and appearing at 899 F.3d 766, is amended as follows:

On page nine of the slip opinion, within the first paragraph of the “DISCUSSION” section, *replace* “The last argument is raised for the first time on appeal, so we do not address it.” *with* “The last argument is raised for the first time on appeal, and we decline to address it.” Following that

sentence, *replace* the citation to *United States ex rel. Kelly v. Serco, Inc.*, 846 F.3d 325, 336 (9th Cir. 2017) *with* the following citation: *United States v. Spilotro*, 800 F.2d 959, 963 (9th Cir. 1986).

With this amendment, the panel unanimously votes to deny the government's petition for panel rehearing, filed on September 27, 2018. No further petitions for en banc or panel rehearing shall be permitted.