

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 19-3027

September Term, 2021

1:16-cr-00030-KBJ-1

Filed On: June 28, 2022

United States of America,

Appellee

v.

Charles Hillie,

Appellant

BEFORE: Henderson*, Rogers, and Wilkins, Circuit Judges

ORDER

Upon consideration of appellee's petition for panel rehearing filed on December 13, 2021, the response thereto, and for the reasons set forth in Judge Wilkins' and Judge Katsas' statements concurring in the denial of appellee's petition for rehearing en banc, it is

ORDERED, on the court's own motion, that rehearing be granted. It is

FURTHER ORDERED that the opinion issued on September 17, 2021, be amended as follows:

(1) Slip op., page 17: Delete the first sentence of the first full paragraph and insert in lieu thereof:

Based on the foregoing, we construe "lascivious exhibition of the anus, genitals, or pubic area of any person" in 18 U.S.C. § 2256(2)(A)(v) to mean that the minor displayed his or her anus, genitalia, or pubic area in a manner connoting that the minor, or any person or thing appearing with the minor in the image, exhibits sexual desire or an inclination to engage in *any* type of sexual activity. See Webster's Third New Int'l Dictionary (1981) (defining "lascivious" to mean, among others, "inclined to lechery: lewd, lustful"); Black's Law Dictionary (5th Ed. 1979) (defining "lascivious" as, among others, "tending to incite lust" and "lewd").;

(2) Slip op., page 18, line 11: Delete "one of the four sexual acts in the list" and insert in lieu thereof "a sexual act";

* Circuit Judge Henderson would deny panel rehearing.

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(3) Slip op., page 19, first full paragraph, lines 9-10: Delete “sexual intercourse, bestiality, masturbation, or sadistic or masochistic abuse” and insert in lieu thereof “a sexual act”;

(4) Slip op., page 26, first full paragraph, line 13: Delete “sexual intercourse” and insert in lieu thereof “a sexual act”;

(5) Slip op., page 29, first full paragraph, lines 13-14: Delete “sexual intercourse, bestiality, masturbation, or sadistic or masochistic abuse” and insert in lieu thereof “a sexual act”;

(6) Slip op., page 31, first full paragraph, lines 5-6: Delete “sexual intercourse, bestiality, masturbation, or sadistic or masochistic abuse” and insert in lieu thereof “a sexual act”.

The Clerk is directed to issue the amended opinion. The Clerk is further directed to issue the mandate forthwith.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Michael C. McGrail

Deputy Clerk