

JUN 04 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RODNEY LEE ROLLNESS,

Defendant - Appellant.

No. 07-30411

D.C. No. CR-06-00041-002-RSL
Western District of Washington,
Seattle

ORDER

Before: B. FLETCHER, RYMER and FISHER, Circuit Judges.

The memorandum disposition filed April 2, 2009, is amended as follows:

At page 1 of the memorandum disposition, delete <Rollness does not contest that the testimony of the government’s witnesses, if credited, is evidence sufficient to establish his guilt for the charged offenses. Their testimony “was not incredible or unsubstantial on its face,”> and replace with <The testimony of the government’s witnesses, if credited, is evidence sufficient to prove beyond a reasonable doubt that the “general purpose” of Rollness’ murder of Michael Walsh was to enhance his status among members of the Washington Nomads, and otherwise establishes Rollness’ guilt for each of the charged offenses. *United*

States v. Banks, 514 F.3d 959, 970 (9th Cir. 2008). This testimony “was not incredible or unsubstantial on its face,”>.

With these amendments, Judges Rymer and Fisher voted to deny the petition for rehearing en banc, and Judge Fletcher recommended denial of the petition for rehearing en banc.

The full court has been advised of the petition for rehearing en banc, and no judge of the court has requested a vote on it.

Appellant’s petition for rehearing en banc, filed April 29, 2009, is **DENIED**. No further petitions for rehearing or rehearing en banc may be filed.