

JUL 15 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NOT FOR PUBLICATION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.

LUIS ENRIQUE GARIBAY,

Defendant - Appellant.

No. 07-10507

D.C. No. CR-05-01419-RCC

ORDER

Before: GOULD and BYBEE, Circuit Judges, and TYMKOVICH,\* Circuit Judge.

Our April 7, 2009 order staying further proceedings and deferring the filing of a petition for rehearing and petition for rehearing en banc is vacated. We have now reviewed the supplemental briefing filed pursuant to our April 27, 2009, order and direct the Clerk to strike the Memorandum Disposition filed March 17, 2009 and file the attached disposition. The time to file a petition for panel rehearing or petition for rehearing en banc will commence with the filing of this new disposition.

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\* The Honorable Timothy M. Tymkovich, Circuit Judge for the Tenth Circuit Court of Appeals, sitting by designation.