

**FOR PUBLICATION**

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

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

v.

NICHOLAS LINDSEY,  
*Defendant-Appellant.*

No. 14-10004

D.C. No.  
2:11-cr-00217-  
LDG-CWH-1

ORDER

Filed February 3, 2017

Before: Susan P. Graber,\* Ronald M. Gould,  
and Michelle T. Friedland, Circuit Judges.

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**ORDER**

The Defendant-Appellant's petition for rehearing is **GRANTED**. The prior opinion and memorandum disposition filed June 28, 2016, are withdrawn. A substitute opinion and substitute memorandum disposition shall be filed in due course.

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\* After oral argument in this case, and our former opinion and memorandum disposition filed June 28, 2016, and after the petition for rehearing or rehearing en banc was filed on August 19, 2016, Judge Graber on January 26, 2017, replaced Judge Noonan on this panel.