

[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

\_\_\_\_\_  
No. 97-3222  
\_\_\_\_\_

D.C. Docket No. 92-01027-CR-MMP

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT  
NOVEMBER 20, 2001  
THOMAS K. KAHN  
CLERK

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

EDGAR ARNOLD GARCIA,

Defendant-Appellant.

\_\_\_\_\_  
Appeal from the United States District Court  
for the Northern District of Florida

\_\_\_\_\_  
**(November 20, 2001)**

ON PETITION FOR REHEARING EN BANC

(Opinion March 9, 2001)

Before ANDERSON, Chief Judge, TJOFLAT, EDMONDSON, BIRCH,

DUBINA, BLACK, CARNES, BARKETT, HULL, MARCUS and WILSON,  
Circuit Judges.

O R D E R:

The Court having been polled at the request of one of the members of the Court and a majority of the Circuit Judges who are in regular active service not having voted in favor of it (Rule 35, Federal Rules of Appellate Procedure; Eleventh Circuit Rule 35-5), the Suggestion of Rehearing En Banc is DENIED.

/S/R. LANIER ANDERSON  
CHIEF JUDGE

CARNES, Circuit Judge, Concurring in the Denial of Rehearing En Banc, in which BLACK, HULL and MARCUS, Circuit Judges, join:

We concur in the denial of rehearing en banc for the reasons set out in our concurring opinion in United States v. Ardley, \_\_\_ F.3d \_\_\_\_, No. 98-7033 (11th Cir. 2001), which is issued contemporaneously with this one.

TJOFLAT, Circuit Judge, Dissenting from the Denial of Rehearing En Banc, in which BARKETT, Circuit Judge, joins:

I dissent for the reasons set forth in my dissent from the denial of rehearing en banc in United States v. Ardley, \_\_\_ F.3d \_\_\_, No. 98-7033 (11th Cir. 2001).