

NO. 14-20771

IN THE
 UNITED STATES COURT OF APPEALS
 FOR THE FIFTH CIRCUIT

UNITED STATES OF AMERICA

PLAINTIFF - APPELLEE

v

CHARLES A. MALOFF, JR.

DEFENDANT - APPELLANT

APPELLANT'S PETITION FOR REHEARING EN BANC,
 AS A RESULT OF THE DENIAL OF HIS PETITION
 FOR PANEL REHEARING

CHARLES A. MALOFF, JR.

PRO SE

NO. 14-20771

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

UNITED STATES OF AMERICA,

PLAINTIFF-APPELLEE

v.

CHARLES A. MALOUFF, JR.

DEFENDANT-APPELLANT

APPELLANT'S PETITION FOR REHEARING EN BANC
AS A RESULT OF THE DENIAL OF HIS PETITION
FOR PANEL REHEARING

PETITION OF DEFENDANT - APPELLANT

CHARLES A. MALOUFF, JR., PRO SE

TCJ NO. A78590 EOP NO. 66089179

PACK UNIT TC 2-91

2400 WALLACE PACK RD

NAVASOTA, TX 77868

TABLE OF CONTENTS

TABLE OF AUTHORITIES	i
STATEMENT OF FACTS	2
ARGUMENTS	5
ISSUE I. TIMELINESS	5
ISSUE II. EXCEEDED PAGE LIMIT	8
CONCLUSION	11
CERTIFICATE OF SERVICE	12
ATTACHMENT	

TABLE OF AUTHORITIES

1. ATWATER v CITY OF LAGO VISTA, 532 US 330, 149 L.Ed. 2d 549, 121 S. CT. 1536 (2001) 2
2. BATCHELDER, 442 US 114, 123, 60 L.Ed. 2d 755, 99 S. CT. 2190 (1979) 1,5,7,8,10
3. BRADSHAW v STUMPF, 545 US 175, 183 (2005) 2
4. BRADY v MARYLAND, 373 US 83, 10 L.Ed. 2d 215, 83 S. CT. 1194 (1963) 1
5. CONE v BEL, 566 US _____, 173 L.Ed. 2d 701, 129 S. CT. 1769, 1782 (2009) 1,5,7,8,10
6. CONNALLY v GENERAL CONST'Z CO., 269 US 385, 391 (1926) 1,5,7,8,10
7. FCC v FOX TV STATIONS, INC., 576 US _____, 183 L. Ed. 2d 234, 132 S. CT. 2307 (2012) 1,5,7,8,10
8. GALVAN v PRESS, 347 US 522, 530, 98 L. Ed. 917, 74 S. CT. 737 (1954) 1,5,7,8,10
9. HILL, 368 US 424, 428, 7 L. Ed. 2d 417, 82 S. CT. 468 (1962) 2
10. HOLLAND v FLORIDA, 560 US 631, 177 L. Ed. 2d 130, 130 S. CT. 2549, 2563 (2010) 1,5
11. JAMES V. VEST, 488 F. SUPP. 2d 1002 (S.D. IL. 2006) 4
12. LEWIS, 348 US 419, 99 L. Ed. 475, 75 S. CT. 415 (1995) 1
13. SKILLING, 561 US 358, 171 L. Ed. 2d 619, 130 S. CT. 1219 (2010) 1,5,7,8,10
14. SLACK v MCDANIEL, 529 US 473, 483, 146 L. Ed. 2d 542,

120 S. CT. 1595 (2000)

2,5

15. U.S. COIN & CURRENCY, 401 US 715, 28 L. Ed. 2d 434,

91 S. CT. 1041 (1971)

1

NO. 14-20771

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

UNITED STATES OF AMERICA,

PLAINTIFF-APPELEE

v

CHARLES A. MALOUFF, JR

DEFENDANT-APPELLANT

APPELLANT'S PETITION FOR REHEARING EN BANC

TO THE COURT OF APPEALS FOR THE FIFTH CIRCUIT:

THE PANEL DECISION CONFLICTS WITH DECISIONS OF THE SUPREME COURT OR OF THE FIFTH CIRCUIT COURT OF APPEALS RELATED TO CONE v. BELL, 566 US ___; HOLLAND v. FLORIDA, 560 US 631; BRADY v. MARYLAND, 373 US 83; SKILLING v. UNITED STATES, 561 US 358; GALVAN v. PRESS, 347 US 522, 530; CONNALLY v. GENERAL CONSTR. CO., 269 US 385, 391; UNITED STATES v. BRETCHELDER, 422 US 114, 123; UNITED STATES v. UNITED STATES COIN & CURRENCY, 401 US 715; LEWIS

V. UNITED STATES, 348 US 491; BRADSHAW v STUMPF, 545 US 172, 183; ATWATER v CITY OF LAGO VISTA, 532 US 330; SLACK v MCDANIEL, 529 US 473, 483; AND, HILL v UNITED STATES, 368 US 424, 428, AND CONSIDERATION BY THE FULL COURT IS THEREBY NECESSARY TO SECURE AND MAINTAIN UNIFORMITY IN THE COURT'S DECISIONS.

MALOUFF IS INNOCENT OF THE CHARGES, AS APPLIED, AND HAS BEEN CONVICTED FOR AN ACT, AS APPLIED, THE LAW DOES NOT MAKE CRIMINAL, AND CONTRARY TO THE INTENT OF CONGRESS, THROUGH ERRONEOUS PROSECUTORIAL MISCONDUCT, AND HIS LIBERTY HAS BEEN TAKEN AWAY FROM HIM. ERRORS OF THE MOST FUNDAMENTAL CHARACTER INHERENTLY RESULT IN A COMPLETE MISARRIAGE OF JUSTICE. THESE AND OTHER CUMULATIVE ERRORS, PRESENTED TO THE COURT, WHEN EXAMINED IN THE TOTALITY OF CIRCUMSTANCES, HAVE RESULTED IN A COMPLETE MISARRIAGE OF JUSTICE.

STATEMENT OF FACTS

1. MALOUFF WAS CONVICTED FOR AN ACT, AS APPLIED, THE LAW, AS APPLIED, DOES NOT MAKE CRIMINAL AND CONTRARY TO THE INTENT OF CONGRESS.
2. MALOUFF WAS RETALIATED AGAINST BY THE FBI AND US ATTORNEY OVER A NATIONAL INTELLIGENCE FAILURE

REGARDING A RUSSIAN SPY IN THE HOUSTON SHIP CHANNEL IN DECEMBER 2001.

3. THE US ATTORNEY USED IMPROPER METHODS CALCULATED TO PRODUCE A WRONGFUL CONVICTION AND WAITED UNTIL AFTER THE PLEA TO INFORM MALCUFF OF THE RETALIATION.

4. IN THE GOVERNMENT'S RESPONSE TO MALCUFF'S ORIGINAL BRIEF TO HIS CORAM NOBIS, THE GOVERNMENT DID NOT DENY, DISPUTE, OBJECT OR ARGUE THE FACT THIS CASE IS BASED ON RETALIATION.

5. MALCUFF WAS ARRESTED ON OCTOBER 11, 2011, IN A STATE ACTION WHERE FLASH BANG GRENADES FROM THE INSTANT CASE CONVENIENTLY SHOWED UP AT MALCUFF'S RESIDENCE, FOUR DAYS AFTER THE POLICE TRASHED HIS HOUSE, FOUND NOTHING, AND WHILE MALCUFF WAS STILL IN CUSTODY.

6. THE U.S. ATTORNEY AGAIN VIOLATED BRADY, WITHHOLDING EXCULPATORY AND EXONERATING EVIDENCE FROM MALCUFF.

7. MALCUFF'S APPOINTED COUNSEL IN THE SUBSEQUENT FEDERAL CASE, AND PAID ATTORNEY IN THE STATE CASE BOTH FAILED TO ADDRESS THE RETALIATION, CONDUCT A THOROUGH PRE-TRIAL INVESTIGATION OR ADDRESS THE RETALIATION AND VIOLATION OF STATE BAR RULES AND RULES OF PRO-

- PROFESSIONAL CONDUCT TO THE TRIBUNAL, AFTER BEING PROVIDED WITH SUPPORTING EVIDENCE AND WITNESS INFORMATION BY MALOUFF.
8. HAD COUNSEL NOT BEEN DEFICIENT AND NEGLIGENT IN THEIR RESPONSIBILITIES, THIS CASE SHOULD HAVE AND WOULD HAVE BEEN PRESENTED TO THE COURT IN LESS THAN FIVE YEARS. THIS IAC IS ADDRESSED IN MALOUFF'S 2255, 5TH CIR (W.D.) CASE NO. 14-51281.
9. MALOUFF WAS A POLICE OFFICER AND U.S.C.G. FEDERAL LAW ENFORCEMENT OFFICER AND LAW ENFORCEMENT TRAINING INSTRUCTOR AND IN ACCORDANCE WITH THE TEXAS CODE OF CRIMINAL PROCEDURE AND AUTHORITY OF THE COAST GUARD, HAD INHERENT AUTHORITY TO MAKE THE TRANSFERS.
10. THE "DEVICES" IN THE INSTANT CASE WERE USED FOR SANCTIONED AND AUTHORIZED LAW ENFORCEMENT TRAINING AND NOT FOR PERSONAL USE.
11. THE INTENT OF CONGRESS AND THE UNCONSTITUTIONAL VAGUENESS OF 26 USC 5812, 5861 AND 5871, THE STATUTES, AS APPLIED, MALOUFF WAS CONVICTED UNDER IS CLEARLY DEFINED AND RULED AS UNCONSTITUTIONALLY VAGUE, AS APPLIED, IN UNITED STATES v JAMES VEST, 488 F. SUPP. 2d 1002 (S.D. IL 2006) A SIMILAR CASE.
12. ON AUGUST 21ST, 2015, THE PANEL DENIED

MALCUFF'S CORAM NOBIS CITING LACK OF REASONABLE DILIGENCE AND THAT THE APPEAL SHOULD HAVE BEEN FILED UNDER OTHER AVENUES.

13. MALCUFF SUBMITTED A PETITION FOR PANEL REHEARING DETAILING THE MISUNDERSTANDING OF, AND DEMONSTRATED, REASONABLE DILIGENCE, AND ADDRESSED GENUINE ISSUES OF MATERIAL FACTS, IN CONFLICT WITH THE SUPREME COURT AND OTHER COURT DECISIONS THAT THE COURT OVERLOOKED OR MISUNDERSTOOD, ON SEPTEMBER 5TH, 2015, THROUGH THE PRISON MAIL SYSTEM. THE PETITION WAS FILED ON SEPTEMBER 11TH, 2015, AND DENIED ON SEPTEMBER 14TH, 2015, CITING IT WAS NOT FILED TIMELY AND EXCEEDED THE 15 PAGE LIMIT PER FED. R. APP. P. R. 40.

ARGUMENTS

ISSUE I. THE PANEL DECISION DENYING MALCUFF'S PETITION FOR PANEL REHEARING FOR TIMELINESS CONFLICTS WITH THE DECISIONS OF THE SUPREME COURT RELATED TO HOLLAND V FLORIDA, 560 US 631; SLACK V MCDANIEL, 529 US 473, 483; SKILLING V UNITED STATES, 561 US 358; FCC V FOX TV STATIONS, INC., 576 US ___; CONE V BELL, 566 US ___; GALVAN V PRESS, 347 US 522, 530; CONNALLY V GENERAL CONST. CO., 269 US 385, 391; UNITED STATES V BETCHELDER, 442 US 114,

ISS, AND CONSIDERATION BY THE FULL COURT IS THEREFORE NECESSARY TO SECURE AND MAINTAIN UNIFORMITY IN THE COURT'S DECISIONS.

THE PANEL DENIED MALOUFF'S PETITION FOR PANEL REHEARING ■■■ CITING TIMELINESS SET FORTH IN FED. R. APP. P. R. 40. THE PANEL OVERLOOKED OR MISUNDERSTOOD MALOUFF'S REQUEST FOR LIBERAL CONSTRUCTION, LENIENCY, TIMELINESS, AND OTHER CONSIDERATIONS, WHICH SHOULD HAVE INCLUDED EQUITABLE TOLLING, AS IT IS DEMANDED BY SOUND LEGAL PRINCIPLES AS WELL AS THE INTEREST OF JUSTICE, WHEN CIRCUMSTANCES, SUCH AS, THE "SNAIL MAIL" PRISON MAIL SYSTEM VS. ELECTRONIC FILING IS BEYOND THE CONTROL OF PRISONER MALOUFF. MALOUFF RECEIVED HIS JUDGEMENT ON AUGUST 31ST, 2015, AT 1900 HRS., VIA THE PRISON MAIL SYSTEM, A FULL 10 DAYS AFTER THE JUDGEMENT WAS ORDERED, AND MALOUFF SUBMITTED HIS PETITION FOR PANEL REHEARING ON SEPTEMBER 5TH, 2015, BACK THROUGH THE PRISON MAIL SYSTEM, BEING DELIVERED ON SEPTEMBER 11TH, 2015, SIX DAYS LATER.

CONVICTION FAILS TO COMPORT WITH DUE PROCESS WHEN THE STATUTE, (AND IN THIS CASE A TECHNICAL RULE) IS SO STANDARDLESS IT AUTHORIZES OR ENCOURAGES SERIOUSLY DISCRIMINATORY ENFORCEMENT.

SKILLING v. UNITED STATES, 561 US 358; FCC v. FOX TV STATIONS, INC., 576 US ____ . FAIR PLAY IS THE ESSENCE OF DUE PROCESS. THE PROHIBITION OF VAGUENESS IN STATUTES IS A WELL RECOGNIZED REQUIREMENT CONSONANT ALIKE WITH NOTIONS OF FAIR PLAY AND THE SETTLED RULES, AN A STATUTE (AS WELL AS IN THIS CASE, A RULE) THAT FLOUTS IT VIOLATES THE FIRST ESSENTIAL OF DUE PROCESS. CONE v. BELL 566 US ____; GALVAN v. PRESS, 347 US 512, 530; CONNALLY v. GENERAL CONSTR' CO., 269 US 385, 391; UNITED STATES v. BERTHELDER, 422 US 114, 123, TO PENALIZE A PETITIONER, WHO HAS NO CONTROL OVER THE MAIL SYSTEM AND IS DENIED ACCESS TO THE FREE WORLD PRACTICE OF ELECTRONIC FILING TO BE IN COMPLIANCE OF A RULE DESIGNED FOR ECONOMY, WHEN THE PETITIONER IS A PRISONER, AND WHO HAS BEEN WRONGFULLY CONVICTED AND TRYING TO DEFEND HIS CONSTITUTIONAL RIGHTS, THE COURT OVERLOOKS DUE PROCESS AND FURTHERS A COMPLETE MISCARriage OF JUSTICE. WHILE THE SUPREME COURT DECISIONS REFER TO 'STATUTES', THEY SHOULD ALSO GOVERN THE VERY RULES AND SYSTEM THAT REGULATES THE JUDICIAL PROCESS THAT OVERSEES AND ENSURES DUE PROCESS AND THE CONSTITUTION PREVAIL FOR THESE REASONS THE COURT SHOULD GRANT THIS PETITION AND REHEAR MALOUFF'S CASE.

ISSUE II. THE PANEL DECISION DENYING MALOUFF'S PETITION FOR PANEL REHEARING CITING IT EXCEEDED THE 15 PAGE LIMIT SET FORTH IN FED. R. APP. P. R. 40 CONFLICTS WITH THE DECISIONS OF THE SUPREME COURT RELATED TO SKILLING v UNITED STATES, 561 US 358; FCC v FOX TV STATIONS, INC., 576 US ___; CONIE v BELL, 506 US ___; GALVAN v PRESS, 347 US 522, 530; CONNALLY v GENERAL CONST'R CO., 269 US 385, 391; UNITED STATES v BETHHELDER, 422 US 114, 123, AND CONSIDERATION BY THE FULL COURT IS NECESSARY TO SECURE AND MAINTAIN UNIFORMITY OF THE COURT'S DECISIONS.

THE PANEL DENIED MALOUFF'S PETITION FOR PANEL REHEARING CITING THE PETITION EXCEEDED THE 15 PAGE LIMIT SET FORTH IN FED. R. APP. P. R. 40. THE PANEL OVERLOOKED OR MISUNDERSTOOD MALOUFF'S REQUEST FOR LIBERAL CONSTRUCTION TO MAKE THE BEST ARGUMENT POSSIBLE, LENIENCY, AND OTHER CONSIDERATIONS, WHICH SHOULD HAVE INCLUDED WAIVING THE 15 PAGE LIMIT ON A HANDWRITTEN DOCUMENT UNDER AN EXTRAORDINARY CIRCUMSTANCE THAT PROHIBITS MALOUFF FROM COMPLYING WITH THE RULE. IT IS DEMANDED BY SOUND LEGAL PRINCIPLES, AS WELL AS IN THE INTEREST OF JUSTICE, WHEN CIRCUMSTANCES, SUCH AS, BEING DENIED

ACCESS TO A COMPUTER OR TYPEWRITER ARE BEYOND THE CONTROL OF THE PRISONER, MALOUFF. FED. R. APP. P. R. 40 (CROSSREFERENCED TO R. 31, 32 AND 35) IS (ALL) AMBIGUOUS, VAGUE, STANDARDLESS, AND VOID OF INSTRUCTION WHEN IT COMES TO PRO SE, PRISONER FILINGS. NOT ALL PRISONERS HAVE ACCESS TO COMPUTERS OR TYPEWRITERS, AND ARE LEFT TO SUBMIT FILINGS IN HANDWRITTEN FORMAT. HANDWRITING IS IMMEASURABLE IN SIZE AND STYLE IN COMPARISON TO A COMPUTER OR TYPEWRITER. THE ONLY CLEAR INSTRUCTION OF THE RULE(S) IS THE PAGE MUST BE CLEAN AND THE PRINT CLEARLY LEGIBLE.

TO CLEARLY EXPLAIN EXTRAORDINARY CIRCUMSTANCES AND GENUINE ISSUES OF MATERIAL FACT, AND OF EXCEPTIONAL IMPORTANCE, THE PROCESS INVOLVES MAKING SURE WHAT NEEDS TO BE SAID OR EXPLAINED IS CLEARLY LEGIBLE AND ARTICULATED. INHERENTLY, HANDWRITTEN DOCUMENTS ARE GOING TO BE LONGER THAN TYPED OR COMPUTER GENERATED. AS THERE IS NO CLEAR INSTRUCTION OR WAIVER ON PRISONER'S HANDWRITTEN FILINGS, THESE RULES ARE STANDARDLESS, VAGUE, VOID OF INSTRUCTION, AND AS APPLIED, CREATE A SUB-CLASS OF PERSONS BY PENALIZING A PRISONER PETITIONER DILIGENTLY TRYING TO DEFEND HIS CONSTITUTIONAL RIGHTS AGAINST A COMPLETE MISCARriage OF JUSTICE. THIS PENALIZATION OVER A TECHNICAL

RULE DISCRIMINATES AND, AS DEMONSTRATED, DENIES DUE PROCESS, AND FURTHER COMPOUNDS THE COMPLETE MISCARriage OF JUSTICE.

CONVICTION FAILS TO COMPORT WITH DUE PROCESS WHEN THE STATUTE, OR AS IN THIS CASE, THE RULE IS SO STANDARDLESS IT AUTHORIZES OR ENCOURAGES SERIOUSLY DISCRIMINATORY ENFORCEMENT. SKILLING v UNITED STATES, 54 US 358; FCC v FOX TV STATIONS, INC., 576 US . FAIR PLAY IS THE ESSENCE OF DUE PROCESS. THE PROHIBITION OF VAGUENESS IS A WELL RECOGNIZED REQUIREMENT CONSONANT ALIKE WITH ORDINARY NOTIONS OF FAIR PLAY AND THE SETTLED RULES AND A STATUTE (AS WELL AS IN THIS CASE, A RULE) THAT FLOUTS IT VIOLATES THE FIRST ESSENTIAL OF DUE PROCESS. CONE v BELL, 566 US ; GALVAN v PRESS, 347 US 522, 530; CONNALLY v GENERAL CONSTR CO, 269 US 385, 391; UNITED STATES v BETCHELDER, 422 US 114, 123. TO PENALIZE A PRISONER PETITIONER WHO IS UNABLE TO COMPLY, BECAUSE OF CIRCUMSTANCES BEYOND HIS CONTROL, TO A RULE DESIGNED FOR ECONOMY, THE COURT OVERLOOKS DUE PROCESS AND FURTHERS A COMPLETE MISCARriage OF JUSTICE, WHILE THESE SUPREME COURT DECISIONS REFER TO "STATUTE" THEY SHOULD ALSO GOVERN THE VARIOUS RULES AND SYSTEM THAT REGULATES THE JUDICIAL

PROCESS THAT OVERSEES AND ENSURES DUE PROCESS AND THE CONSTITUTION PREVAIL. FOR THESE REASONS THE COURT SHOULD GRANT THIS PETITION AND REHEAR MALOUFF'S CASE.

CONCLUSION

JUDICIAL SILENCE ON EGREGIOUS AND CRIMINAL GOVERNMENT MISCONDUCT EMPLOYED TO SECURE A WRONGFUL CONVICTION, AND THE DEPRIVATION OF MALOUFF'S CONSTITUTIONAL RIGHTS BY OVERLOOKING MULTIPLE ERRORS OF THE MOST FUNDAMENTAL CHARACTER, IN CONFLICT WITH DECISIONS OF THE SUPREME COURT, FOR THE REASONS CITED, UNDERMINES PUBLIC TRUST AND THE INTEGRITY OF THE JUDICIAL PROCESS. FOR ALL OF THE AFOREMENTIONED REASONS, AND IN THE INTEREST OF JUSTICE, THE COURT SHOULD GRANT THIS PETITION AND REHEAR THE CASE.


DATED THIS 18TH DAY OF SEPTEMBER, 2015.


CHARLES A. MALOUFF, JR.

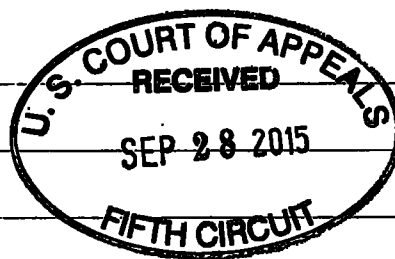
CERTIFICATE OF SERVICE

I, CHARLES A. MALOUFF, JR., AKA CHARLIE MALOUFF, TDCJ NO. 1978590, DEFENDANT-APPELLANT, BEING PRESENTLY INCARCERATED IN THE TDCJ WALLACE PACK UNIT, NAVASOTA, TEXAS, DECLARE UNDER THE PENALTY OF PERJURY, THAT I AM UNABLE TO SERVE A TRUE AND CORRECT COPY OF MY PETITION FOR RE-HEARING EN BANC TO THE PLAINTIFF-APPELLEE, THE UNITED STATES OF AMERICA, THROUGH THE U.S. ATTORNEY, 1000 LOUISIANA ST., STE. 2300, HOUSTON, TEXAS, 77002, AS A RESULT OF MY INCARCERATION, AND ADVERSE CONDITIONS,

DATED THIS 18TH DAY OF SEPTEMBER, 2015.



CHARLES A. MALOUFF, JR
1978590
PACK UNIT TC 2-91
2400 WALLACE PACK RD
NAVASOTA, TX 77868



ATTACHMENT

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

September 14, 2015

#1978590
Mr. Charles A. Malouff Jr.
CID Pack Prison
2400 Wallace Pack Road
Navasota, TX 77868-0000

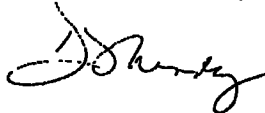
No. 14-20771 USA v. Charles Malouff, Jr.
USDC No. 4:06-CR-237-1

Dear Mr. Malouff,

We received your petition for rehearing on September 11, 2015, and will take no action. The time for filing a timely petition for rehearing under FED R. APP. P. 40 has now expired. You are further advised that your rehearing exceeded the 15 page limitation. See FED R. APP. P. 35(b) and 5TH CIR. R. 35.5.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Donna L. Mendez, Deputy Clerk
504-310-7677

cc: Ms. Renata Ann Gowie
Mr. John A. Reed

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

October 01, 2015

#1978590
Mr. Charles A. Malouff Jr.
CID Pack Prison
2400 Wallace Pack Road
Navasota, TX 77868-0000

No. 14-20771 USA v. Charles Malouff, Jr.
USDC No. 4:06-CR-237-1

Dear Mr. Malouff,

We received your petition for rehearing en banc on September 28, 2015 and will take no action. As stated in our letter of September 14, 2015 the time for filing a timely petition for rehearing/rehearing en banc under FED R. APP. P. 40 has expired.

Sincerely,

LYLE W. CAYCE, Clerk

Claudia N. Farrington

By: _____
Claudia N. Farrington, Deputy Clerk
504-310-7706

cc: Ms. Renata Ann Gowie
Mr. John A. Reed