

FILED: September 7, 2017

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 16-4299  
(3:16-cr-00009-JAG-1)

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UNITED STATES OF AMERICA

Plaintiff - Appellant

v.

JAMES WILLIAM HILL, III

Defendant - Appellee

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ORDER

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The court denies the petition for rehearing. Judge Shedd and Judge Agee vote to deny the petition.

Judge Wynn votes in favor of granting the government's petition for rehearing. Footnote 5 in the majority opinion which states, in dicta, that the government must establish that Hill's conduct "substantially" affects commerce, is at odds with Supreme Court precedent. *See Taylor v. United States*, 136 S. Ct.

2074, 2081 (2016) (“[I]t makes no difference . . . that any actual or threatened effect on commerce in a particular case is minimal.”).

Entered at the direction of the panel: Judge Shedd and Judge Agee concur and Judge Wynn dissents.

For the Court

/s/ Patricia S. Connor, Clerk