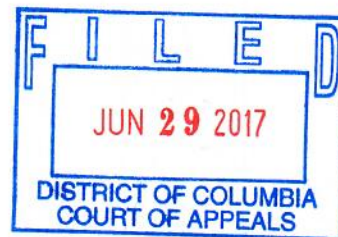


**District of Columbia  
Court of Appeals**



No. 14-CF-1074

BERNARD J. FLEMING,

Appellant,

v.

CF1-1328-14

UNITED STATES,

Appellee.

BEFORE: Blackburne-Rigsby, Chief Judge; Glickman,\* Fisher,\* Thompson,  
Beckwith, Easterly,\* and McLeese, Associate Judges.

**O R D E R**

On consideration of appellant's petition for rehearing or rehearing *en banc*, *amicus curiae* Public Defender Service's brief in support of appellant's petition, and appellee's opposition thereto, it is

ORDERED by the merits division\* that the petition for rehearing is denied; and it appearing that the majority of the active judges of this court has voted to grant the petition for rehearing *en banc*, it is

FURTHER ORDERED that appellant's petition for rehearing *en banc* is granted and that the opinion and judgment of November 10, 2016, are hereby vacated. It is

FURTHER ORDERED that the Clerk shall schedule this matter for argument before the court sitting *en banc* as soon as the calendar permits. It is

FURTHER ORDERED that appellant shall file his new brief on or before August 10, 2017; *amicus curiae* Public Defender Service shall file its brief on or before August 21, 2017; appellee shall file its responsive brief no later than September 21, 2017; and appellant shall file his responsive brief, if any, no later than October 5, 2017. Each party shall file ten copies of its briefs. These new briefs shall be specifically designed for consideration by and addressed to the *en banc* court and shall supersede all briefs previously filed in this appeal.

PER CURIAM