

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

UNITED STATES OF AMERICA, <i>Plaintiff-Appellee,</i> v. CASEY DALE MAYER, <i>Defendant-Appellant.</i>
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No. 07-30274  
D.C. No.  
CR-05-60072-ALA  
**ORDER AND  
OPINION**

Appeal from the United States District Court  
for the District of Oregon  
Ann L. Aiken, District Judge, Presiding

Argued and Submitted  
May 5, 2008—Portland, Oregon

Filed March 16, 2009

Before: Richard C. Tallman, Richard R. Clifton, and  
N. Randy Smith, Circuit Judges.

Order;  
Dissent to Order by Chief Judge Kozinski;  
Opinion by Judge N.R. Smith;

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**COUNSEL**

Craig E. Weinerman, Assistant Federal Public Defender,  
Eugene, Oregon, for the defendant-appellant.

Frank R. Papagni, Jr., Assistant United States Attorney,  
Eugene, Oregon, for the plaintiff-appellee.

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**ORDER**

The opinion in the above-captioned matter filed on June 30, 2008, and published at 530 F.3d 1099, is WITHDRAWN. The superseding opinion shall be filed concurrently with this order.

Having made the foregoing amendments to the opinion, all judges on the panel have voted to deny Defendant/Appellee's Petition for Panel Rehearing, and so that petition is DENIED.

The full court has been advised of Defendant/Appellee's Petition for Rehearing En Banc, and a judge of this court requested a vote on whether this case should be reheard en banc; however, a majority of the active judges did not vote in favor of en banc consideration. Fed. R. App. P. 35. Accordingly, the Petition for Rehearing En Banc is also DENIED.