No. 14-5860

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Oct 14, 2015
DEBORAH S. HUNT, Clerk

AVELINO CRUZ MARTINEZ,

Petitioner-Appellant,

v.

UNITED STATES OF AMERICA, ET AL.,

Respondent-Appellee.

O R D E R

BEFORE: COLE, Chief Judge; BOGGS, BATCHELDER, MOORE, CLAY, GIBBONS, ROGERS, SUTTON, COOK McKEAGUE, GRIFFIN, KETHLEDGE, WHITE, STRANCH, and DONALD, Circuit Judges.

A majority of the Judges of this Court in regular active service have voted for the rehearing of this case en banc. Sixth Circuit Rule 35(b) provides as follows:

> "The effect of the granting of a hearing en banc shall be to vacate the previous opinion and judgment of this court, to stay the mandate and to restore the case on the docket sheet as a pending appeal."

Accordingly, it is **ORDERED**, that the previous decision and judgment of this court is vacated, the mandate is stayed and this case is restored to the docket as a pending appeal.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk