

RECOMMENDED FOR PUBLICATION  
Pursuant to Sixth Circuit I.O.P. 32.1(b)

File Name: 22a0059p.06

**UNITED STATES COURT OF APPEALS**

FOR THE SIXTH CIRCUIT

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UNITED STATES OF AMERICA,

*Plaintiff-Appellee,*

v.

DAVID E. McCALL, JR.,

*Defendant-Appellant.*

No. 21-3400

On Petition for Rehearing En Banc.

United States District Court for the Northern District of Ohio at Cleveland.

No. 1:13-cr-00345-41—Christopher A. Boyko, District Judge.

Decided and Filed: April 1, 2022

Before: SUTTON, Chief Judge; MOORE, COLE, CLAY, GIBBONS, GRIFFIN,  
KETHLEDGE, WHITE, STRANCH, DONALD, THAPAR, BUSH, LARSEN,  
NALBANDIAN, READLER, and MURPHY, Circuit Judges.

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**COUNSEL**

**ON PETITION FOR REHEARING EN BANC:** Rebecca Chattin Lutzko, Matthew B. Kall, UNITED STATES ATTORNEY'S OFFICE, Cleveland, Ohio, for Appellee. **ON RESPONSE:** Vanessa Malone, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Akron, Ohio, for Appellant.

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**ORDER**

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A majority of the Judges of this Court in regular active service has voted for rehearing en banc of this case. 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 are vacated, the mandate is stayed and this case is restored to the docket as a pending appeal.

The Clerk will direct the parties to file supplemental briefs and will schedule this case for oral argument as soon as possible.

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt", written in a cursive style.

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Deborah S. Hunt, Clerk