

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

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May 15, 2018

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 17-10172-U
Case Style: Irma Ovalles v. USA
District Court Docket No: 1:16-cv-02392-TWT
Secondary Case Number: 1:10-cr-00305-TWT-RGV-1

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause.

For the purpose of the upcoming en banc rehearing in the above referenced case, the court desires for counsel to focus on their briefs on the following issues:

1. Is the risk of force clause in 18 U.S.C. § 924(c)(3)(B) unconstitutionally vague in the light of *Sessions v. Dimaya*, 138 S.Ct. 2014 (2018)?
2. Should this Court overrule *United States v. McGuire*, 706 F.3d 1333, 1336-37 (11th Cir. 2013), insofar as it requires applying the categorical approach to determine whether an offense constitutes a “crime of violence” under § 924(c)(3)?

APPELLANT’S EN BANC BRIEF IS TO BE SERVED AND ELECTRONICALLY FILED ON OR BEFORE MONDAY, JUNE 4, 2018 BY 5:00 P.M. APPELLEE’S EN BANC BRIEF SHALL BE SERVED AND ELECTRONICALLY FILED ON OR BEFORE MONDAY, JUNE 25, 2018 BY 5:00 P.M. An en banc reply brief shall be filed electronically on or before Monday, July 2, 2018 by 5:00 p.m. NO EXTENSIONS WILL BE GRANTED. 20 paper copies of the en banc briefs should be sent to the clerk’s office (appellant’s in blue covers, appellee’s in red covers and any reply in gray covers). The parties are expected to insure that all other parties receive a copy of their briefs before the close of business on the day of filing. NO TIME FOR MAILING SHALL BE ALLOWED. The usual page limitations will apply. The filing of an en banc amicus brief is governed by 11th Cir. R. 35-8.

All counsel are requested to submit 20 copies of their original panel briefs, appendix and supplemental authorities prior to 5:00 p.m., Monday, June 4, 2018.

Oral argument will be conducted Monday, July 9, 2018, in Atlanta, Georgia at 12:30 p.m. Each

party will be allotted 20 minutes per side for oral argument.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Jenifer L. Tubbs

Phone #: 404-335-6166

BR-1CIV Civil appeal briefing ntc issued