

**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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CORRECTION
August 01, 2019

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 17-10473-U
Case Style: USA v. Terin Moss
District Court Docket No: 4:16-cr-00154-WTM-GRS-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 their briefs on the following issue:

In light of the Supreme Court's decision in Voisine v. United States, 136 S. Ct. 2272 (2016), does a conviction predicated on a mens rea of recklessness have "as an element the use, attempted use, or threatened use of physical force against the person of another" such that it qualifies as a "violent felony" under the Armed Career Criminal Act, 18 U.S.C. § 924(e)(2)(B)(i)? And to what extent does that analysis affect United States v. Palomino Garcia, 606 F.3d 1317 (11th Cir. 2010)?

APPELLANT'S EN BANC BRIEF SHALL BE SERVED AND ELECTRONICALLY FILED ON OR BEFORE SEPTEMBER 9, 2019. APPELLEE'S EN BANC BRIEF SHALL BE SERVED AND ELECTRONICALLY FILED ON OR BEFORE OCTOBER 9, 2019. An en banc reply brief shall be electronically filed on or before October 30, 2019. **NO EXTENSIONS WILL BE GRANTED.** Parties should format their briefs according to Federal Rules of Appellate Procedure 28 and 32 and shall contain the title "En Banc Brief". Each brief must adhere to the page and type-volume limitations Rule 32(a)(7). Twenty (20) copies of the en banc briefs should be filed (appellant's in blue covers, appellee's in red covers and any reply in gray covers). Counsel is expected to serve all parties a copy of their brief before the close of business on the day of filing. PAPER COPIES OF THE BRIEFS SHOULD

BE RECEIVED BY THE NEXT BUSINESS DAY. The filing of an en banc amicus brief is governed by 11th Cir.R.35-8.

All Counsel are requested to submit 16 copies of their original opening panel briefs and supplemental authorities prior to September 9, 2019.

Oral argument will be conducted the week of February 24, 2020 in Atlanta, Georgia. Each party will be allotted twenty (20) minutes per side for oral argument. Counsel will receive subsequent correspondence regarding the specific time of 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