

APPENDIX B

A-6

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 14 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

FRANCISCO GUTIERREZ,

Defendant-Appellant.

No. 21-50282

D.C. No. 3:12-cr-00236-GPC-6
Southern District of California,
San Diego

ORDER

Before: KLEINFELD and COLLINS, Circuit Judges.*

A quorum of the panel has voted unanimously to deny the petition for panel rehearing. Judge Collins has voted to deny the petition for rehearing en banc, and Judge Kleinfeld so recommends. The full court has been advised of the petition for rehearing en banc, and no judge of the court has requested a vote. *See* FED. R. APP. P. 35(f). Accordingly, the petition for panel rehearing and rehearing en banc (Dkt. Entry 36) is DENIED.

* This matter is decided unanimously by a quorum of the panel. *See* 28 U.S.C. § 46(d); Ninth Cir. Gen. Order 3.2(h).