

# APPENDIX B

**18-10083**

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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**UNITED STATES OF AMERICA,**

**Plaintiff-Appellee,**

**v.**

**JUAN CARLOS BURNS,**

**Defendant-Appellant.**

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA (CR-17-00445-DGC-1)

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**DEFENDANT - APPELLANT'S EXCERPTS OF RECORD**  
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JON M. SANDS  
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District of Arizona

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four factors in declining order of importance as follows:

First, enrollment in a federally recognized tribe;

Second, government recognition formally and informally through receipt of assistance reserved only to individuals who are members or are eligible to become members of a federally recognized tribe;

Third, enjoyment of the benefits of affiliation with a federally recognized tribe;

And, fourth, social recognition as someone affiliated with a federally recognized tribe through residence on a reservation and participation in the social life of a federally recognized tribe.

You are instructed that the Salt River Pima-Maricopa Indian Community is a federally recognized Indian tribe and was so at the time of the instant offense.

The defendant is charged Count 2 of the indictment with discharge -- with discharging a firearm during and in relation to a crime of violence causing death in violation of Section 1924(c)(1)(A)(i) through (iii) and Section (j) of Title 18 of the United States Code.

In order for the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant committed the crime of first degree murder as charged in Count 1 of the indictment or the

09:54:12 1 lesser offense of second degree murder, which I instruct you  
2 are both crime of violence.

3 And, second, the defendant knowingly discharged the  
4 firearm during and in relation to that crime.

09:54:27 5 A defendant discharges a firearm during and in  
6 relation to a crime if the firearm facilitated or played a  
7 role in the crime.

8 An act is done knowingly if the defendant is aware of  
9 the act and does not act through ignorance, mistake, or  
09:54:51 10 accident. The government is not required to prove that the  
11 defendant knew that his acts or omissions were unlawful. You  
12 may consider evidence of the defendant's words, acts, or  
13 omissions along with all the other evidence in deciding  
14 whether the defendant acted knowingly.

09:55:13 15 Evidence has been admitted that the defendant may  
16 have been intoxicated at the time of the crime charged -- at  
17 the time the crime charged was committed.

18 You may consider evidence of the defendant's  
19 intoxication in deciding whether the government has proved  
09:55:30 20 beyond a reasonable doubt that the defendant acted with the  
21 intent required to commit first degree murder.

22 Voluntary intoxication is not a defense to second  
23 degree murder or involuntary manslaughter.

24 Mere presence at the scene of a crime or mere  
09:55:55 25 knowledge that a crime is being committed is not sufficient to