

# EXHIBIT B

FILED: November 13, 2025

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 25-2  
(2:15-cr-00472-RMG-1)  
(2:25-cv-03298-RMG)

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In re: DYLANN STORM ROOF

Petitioner

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O R D E R

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The judges of the Fourth Circuit having recused themselves in this case, Chief Justice Roberts designated and assigned Eighth Circuit Judge Duane Benton, Sixth Circuit Senior Judge Ronald Lee Gilman, and Second Circuit Senior Judge Denny Chin to perform judicial duties in this case.

On August 13, 2025, the designated panel denied petitioner's petition for writ of mandamus. Petitioner filed a timely petition for rehearing and rehearing en banc. Judge Benton, Senior Judge Gilman, and Senior Judge Chin have denied petitioner's petition for panel rehearing.

The court declines to take the unprecedented step of using 28 U.S.C. § 291

or 292 to seek a substitute en banc court for the purpose of considering appellant's petition for rehearing en banc. "[U]nder the wording of 28 U.S.C. § 46(c) and the Supreme Court's holding in *Moody v. Albemarle Paper Co.*, 417 U.S. 622, 94 S.Ct. 2513, 41 L.Ed.2d 358 (1974), only judges of the Circuit who are in regular active service may make the determination to rehear a case en banc." *United States v. Nixon*, 827 F.2d 1019, 1021 (5th Cir. 1987). Designation of a visiting judge for this purpose is "an inappropriate procedure, unrelated to providing a quorum for the en banc court of a circuit." *Comer v. Murphy Oil USA*, 607 F.3d 1049, 1054 (5th Cir. 2010).

Accordingly, the petition for en banc rehearing is denied due to the lack of a quorum for en banc review.

Entered at the direction of Chief Judge Diaz.

For the Court

/s/ Nwamaka Anowi, Clerk