

FILED

JUN 16 2009

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

FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

**EARL ANTHONY NEVILS, a/k/a
EARL NEVILS, JR., EARL BOWMAN,
EARL JOHNSON, ALFRED
JOHNSON, "BABYCRIPTOE",
"LILAMIGO" and "BABY FROG,**

Defendant - Appellant.

No. 06-50485

D.C. No. CR-03-01269-CBM

ORDER

KOZINSKI, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.