

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Nos. 01-2468 & 02-2624

UNITED STATES OF AMERICA

v.

HERBERT L. BENDOLPH,
Appellant at No. 01-2468

UNITED STATES OF AMERICA

v.

JULIO OTERO,
Appellant at No. 02-2624

On Appeal from the United States District Court
for the District of Delaware
(D.C. No. 95-cr-00068)
District Judge: Honorable Sue L. Robinson

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. No. 96-cr-00005-3)
District Judge: Honorable Sylvia H. Rambo

Argued October 26, 2004

Reargued En Banc February 23, 2005

ORDER AMENDING OPINION

Per the direction of the Court, footnote #3 of the opinion filed on May 16, 2005 is

amended as follows:

Although the court may act upon what plainly appears from the motion, attached exhibits and record, not all limitations issues may appear in such manner. As such, notice and an opportunity to respond should be afforded during the Rule 4 stage. *See* footnote 15 *infra*.

Furthermore, as it appears that the judgment and mandate contained a clerical error in that those documents incorrectly state that appeal at No. 02-2624 originated from the United States District Court for the District of Delaware an amended judgment and mandate shall be issued correcting the clerical error.

For the Court,

/s/ Marcia M. Waldron
Clerk

Date: May 20, 2005

clc\cc: David R. Fine, Esq.

Marsha A. Sajer, Esq.

Richard G. Andrews, Esq.

William A. Behe, Esq.

Robert A. Lawton, Esq.

Michael Wiseman, Esq.

Michael J. Bresnick, Esq.

Theodore B. Smith III, Esq.