

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 05-4997

UNITED STATES OF AMERICA,

Appellant

v.

WILLIAM TOMKO

On Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. No. 04-cr-00108)

District Judge: Honorable Gary L. Lancaster

Present: SMITH, FISHER and COWEN, *Circuit Judges*.

SUR PETITION FOR PANEL REHEARING

The petition for panel rehearing filed by Appellee having been submitted to the judges who participated in the decision of this court, it is hereby ORDERED that the petition for panel rehearing is GRANTED. The opinion filed August 20, 2007, is hereby VACATED, and a subsequent opinion will be issued.

BY THE COURT:

/s/ D. Michael Fisher

Circuit Judge

Dated: January 17, 2008

clc\cc: Alan Hechtkopf, Esq.

Cynthia R. Eddy, Esq.

S. Robert Lyons, Esq.

J. Alan Johnson, Esq.