

**FILED**  
**United States Court of Appeals**  
**Tenth Circuit**

**PUBLISH**

**October 21, 2024**

**UNITED STATES COURT OF APPEALS**

**Christopher M. Wolpert**  
**Clerk of Court**

**FOR THE TENTH CIRCUIT**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMARYUS MOORE,

Defendant - Appellant.

No. 22-3173  
(D.C. No. 6:18-CR-10073-JWB-2)  
(D. Kan.)

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**ORDER**

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Before **TYMKOVICH**, **MURPHY**, and **CARSON**, Circuit Judges.

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This matter is before the court on *Appellant's Petition for Rehearing En Banc* ("Petition"). We also have a response from the United States, and a reply from Appellant.

The Petition, response, and reply were circulated to all non-recused judges of the court who are in regular active service. As no member of the panel and no judge in regular active service on the court requested that the court be polled, the Petition is DENIED.

Judge Tymkovich separately concurs in the denial of rehearing en banc. Judge Tymkovich's concurrence is joined by Judge Carson.

Entered for the Court,

A handwritten signature in black ink, appearing to read 'C. M. Wolpert', written over a horizontal line.

CHRISTOPHER M. WOLPERT, Clerk

No. 22-3173, *United States v. Moore*

**TYMKOVICH**, Circuit Judge, joined by Judge Carson, concurring in the denial of rehearing en banc.

I concur in the denial of rehearing en banc. The reasoning of the two-step sentencing procedure set forth in *United States v. Moore*, 30 F.4th 1021 (10th Cir. 2022), should be addressed in a future case where it is objected to below and raised before us on direct appeal.