IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 05-20001

U.S. COURT OF APPEALS
FILED
JAN 21 2005
CHARLES R. FULBRUGE III
CLERK

In Re: UNITED STATES OF AMERICA

Petitioner

Petition for Writ of Mandamus to the
United States District Court
for the Southern District of Texas, Houston

ON PETITION FOR REHEARING EN BANC

(Opinion 1/12/05, 5 Cir., _____, _____ F.3d _____)

Before JONES, BARKSDALE, and PRADO, Circuit Judges.

PER CURIAM:

(X) Treating the Petition for Rehearing En Banc as a Petition for Panel Rehearing, the Petition for Panel Rehearing is DENIED. No member of the panel nor judge in regular active service of the court having requested that the court be polled on Rehearing En Banc (FED. R. APP. P. and 5th CIR. R. 35), the Petition for Rehearing En Banc is DENIED.

( ) Treating the Petition for Rehearing En Banc as a Petition for Panel Rehearing, the Petition for Panel Rehearing is DENIED. The court having been polled at the request of one of the members of the court and a majority of the judges who are in regular active service not having voted in favor (FED. R. APP. P. and 5th CIR. R. 35), the Petition for Rehearing En Banc is DENIED.

ENTERED FOR THE COURT:

Edith H. Jones
United States Circuit Judge

REHG-6a

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 05-20001

U.S. COURT OF APPEALS
FILED
JAN 21 2005
CHARLES R. FULBRUGE III
CLERK

In Re: UNITED STATES OF AMERICA

Petitioner

Petition for Writ of Mandamus to the
United States District Court
for the Southern District of Texas, Houston

O R D E R :

IT IS ORDERED that the respondent's motion to withdraw the mandate which was issued on January 12, 2005, is DENIED.

/s/ EDITH H. JONES
EDITH H. JONES
UNITED STATES CIRCUIT JUDGE

MOT-21