

2015 WL 6531272

Only the Westlaw citation is currently available.  
United States Court of Appeals,  
Fourth Circuit.

UNITED STATES of America, Plaintiff--Appellee

v.

Aaron GRAHAM, Defendant--Appellant.  
Electronic Frontier Foundation; National  
Association of Criminal Defense Lawyers;  
American Civil Liberties Union Foundation  
of Maryland; Center for Democracy &  
Technology; American Civil Liberties Union  
Foundation, Amici Supporting Appellant.  
United States of America, Plaintiff--Appellee

v.

Eric Jordan, Defendant--Appellant.  
Electronic Frontier Foundation; National  
Association of Criminal Defense Lawyers;  
American Civil Liberties Union Foundation  
of Maryland; Center for Democracy &  
Technology; American Civil Liberties Union  
Foundation, Amici Supporting Appellant.

Nos. 12-4659 (L), 12-4825. | Oct. 28, 2015.

**Attorneys and Law Firms**

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the United States Attorney, Baltimore, MD, for Plaintiff--  
Appellee.

Paresh S. Patel, Esq., Meghan Suzanne Skelton, Assistant  
Federal Public Defender, James Wyda, Federal Public

Defender, Office of the Federal Public Defender, Baltimore,  
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Hanni Fakhoury, Electronic Frontier Foundation, San  
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Indigent Defense Services, Durham, NC, David Robert  
Rocah, American Civil Liberties Union of Maryland,  
Baltimore, MD, Kevin S. Bankston, Gregory T. Nojeim,  
Washington, DC, for Amici Supporting Appellant.

**ORDER**

\*1 A majority of judges in regular active service and not  
disqualified having voted in a requested poll of the court to  
grant the government's petition for rehearing en banc, the  
court grants the government's petition for rehearing en banc.

No member of the court requested a poll on the petitions for  
rehearing en banc filed by Appellants Graham and Jordan,  
and those petitions are denied. Appellant Jordan's petition for  
panel rehearing is also denied.

The parties and amici curiae shall file 16 additional paper  
copies of their briefs and appendices previously filed in this  
case within 10 days. The parties may move, or the court may  
sua sponte order, the filing of supplemental en banc briefs  
pursuant to Local Rule 35(d).

This case is tentatively calendared for oral argument during  
the court's March 22-25, 2016, oral argument session.

**All Citations**

--- Fed.Appx. ---, 2015 WL 6531272 (Mem)



# SCCID

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Robert M. Dudek, Chief Appellate Defender  
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December 16, 2015

**RECEIVED**

DEC 16 2015

**SC Court of Appeals**

The Honorable Jenny Abbott Kitchings  
Clerk, S.C. Court of Appeals  
Post Office Box 11629  
Columbia, S.C. 29211

Re: State v. Devin Johnson, Appellate Case No. 2014-000766

Dear Ms. Kitchings:

On November 30, 2015, I advised this Court of the Fourth Circuit Court of Appeals' decision of United States v. Graham, Op. No. 12-4659, 12-4825 pursuant to Rule 208(b)(7), SCACR, in light of the opinion's significance to the first issue presented in the brief filed by undersigned counsel in the above-referenced case. On October 28, 2015, the Fourth Circuit granted the government's petition for rehearing en banc in the Graham case. An order to that effect is enclosed for this Court's convenience. Per the order, the Graham case is "tentatively calendared for oral argument during the court's March 22-25, 2016, oral argument session."

If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely,

Susan B. Hackett  
Appellate Defender

SBH/

cc: William Edgar Salter, III, Esquire (with enclosure)  
Devin Johnson (with enclosure)

Enclosure: as stated