

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 9<sup>th</sup> day of February, two thousand sixteen.

**PRESENT: ROBERT A. KATZMANN,**  
**Chief Judge,**  
**DENNIS JACOBS,**  
**JOSÉ A. CABRANES,**  
**ROSEMARY S. POOLER,**  
**REENA RAGGI,**  
**RICHARD C. WESLEY,**  
**PETER W. HALL,**  
**DEBRA ANN LIVINGSTON,**  
**GERARD E. LYNCH,**  
**DENNY CHIN,**  
**RAYMOND J. LOHIER, JR.,**  
**SUSAN L. CARNEY,**  
**CHRISTOPHER F. DRONEY,**  
**Circuit Judges.**

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**UNITED STATES of AMERICA,**

**Appellee,**

- v. -

**14-2428**

**RAHEEM BERT, aka RAHEEM LINWOOD,  
aka RADIO**

**Defendant-Appellant.**

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For Appellee: Douglas M. Pravda, Amy Busa,  
Assistant United States Attorneys,  
*for* Robert L. Capers, United States  
Attorney for the Eastern District of  
New York, Brooklyn, NY.

For Defendant-  
Appellant: James Darrow, New York, NY.

### **ORDER**

Following disposition of this appeal, an active judge of the Court requested a poll on whether to rehear the case en banc. A poll having been conducted and there being no majority favoring en banc review, rehearing en banc is hereby **DENIED**, with opinions to follow.

FOR THE COURT:  
CATHERINE O'HAGAN WOLFE, CLERK