

March 10, 2009

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSEPH P. NACCHIO,

Defendant - Appellant.

No. 07-1311
(D. Ct. No. 05-CR-00545-MSK-1)

ORDER

Before **KELLY, McCONNELL**, and **HOLMES**, Circuit Judges.

This matter is before the court on appellant's *Application For Release Pending Supreme Court Action On A Petition For Certiorari*. We also have a request to modify the briefing schedule. Upon consideration, the *Application For Release* is denied without prejudice to renewal subject to initial submission of that application to the United States District Court for the District of Colorado. The request to modify the briefing schedule is denied as moot.

Entered for the Court,



ELISABETH A. SHUMAKER
Clerk of Court