

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

FLAVIO NUNEZ-REYES, aka Flavio Reyes,  <i>Petitioner,</i>  v. ERIC H. HOLDER Jr., Attorney General,  <i>Respondent.</i>
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No. 05-74350  
Agency No.  
A078-181-648  
**ORDER**

Filed September 24, 2010

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**ORDER**

KOZINSKI, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.