

FILED

OCT 03 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DAVID SCOTT DETRICH,

Petitioner - Appellant,

v.

**CHARLES L. RYAN, Director of
Arizona Department of Corrections,**

Repondent - Appellee.

No. 08-99001

D.C. No. 4:03-cv-00229-DCB

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 Federal Rule of Appellate Procedure 35(a) and Ninth Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.

Judge Hurwitz did not participate in the deliberations or vote as to whether the case should be taken en banc.