

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 16-2692

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THEODORE HAYES;  
AQEELA FOGLE,  
Appellants

v.

PHILIP E. HARVEY

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On Appeal from the United States District Court  
for the Eastern District of Pennsylvania  
District Court No. 2-15-cv-02617  
District Judge: The Honorable Nitza I. Quinones Alejandro

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ORDER SUR PETITION  
FOR REHEARING EN BANC

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Present: SMITH, Chief Judge, McKEE, AMBRO, CHAGARES, JORDAN  
HARDIMAN, GREENAWAY, JR., VANASKIE, SHWARTZ, KRAUSE,  
RESTREPO, BIBAS, and FISHER\*, Circuit Judges

A majority of the active judges having voted for rehearing en banc in the above captioned case, it is ordered that the petition for rehearing is GRANTED. The Clerk of this Court shall list the case for rehearing en banc at the convenience of the Court. The opinion and judgment entered October 18, 2017 are hereby vacated.

BY THE COURT,

s/ D. Brooks Smith  
Chief Judge

Dated: December 29, 2017

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\* Will participate as a member of the en banc court pursuant to 3d Cir. I.O.P. 9.6.4.

tmm/cc: All Counsel of Record