

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

<p style="text-align: center;">SCOTT LYNN PINHOLSTER, <i>Petitioner-Appellee,</i></p> <p style="text-align: center;">v.</p> <p style="text-align: center;">ROBERT L. AYERS, Jr., Warden, <i>Respondent-Appellant.</i></p>	}	<p style="text-align: center;">No. 03-99003</p> <p style="text-align: center;">D.C. No.</p> <p style="text-align: center;">CV-95-06240-GLT</p>
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Filed March 20, 2009

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.

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