

FOR PUBLICATION

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

LARY JAMES PLUMLEE,  
*Petitioner-Appellant,*  
v.  
CATHERINE CORTEZ MASTO,  
Attorney General State of Nevada;  
E.K. McDANIEL,  
*Respondents-Appellees.*

No. 04-15101  
D.C. No.  
CV-00-00244-  
DWH/VPC  
ORDER

Filed August 10, 2007

Before: Mary M. Schroeder, Chief Judge.

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**ORDER**

Upon the vote of a majority of nonrecused regular active judges of this court,<sup>1</sup> it is ordered that this case be reheard by the en banc court pursuant to Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to this court or any district court of the Ninth Circuit, except to the extent adopted by the en banc court.

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<sup>1</sup>Judge Rawlinson is recused.

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