

FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NICOLE BRADLEY,
Petitioner-Appellant,
v.
GLORIA HENRY, Warden,
Respondent-Appellee.

No. 04-15919
D.C. No.
CV-03-03034-PJH

ORDER
AMENDING
CONCURRING
OPINION AND
DENYING
PETITION FOR
REHEARING

Filed February 29, 2008

Before: Mary M. Schroeder, Harry Pregerson,
Warren J. Ferguson, John T. Noonan, Sidney R. Thomas,
Barry G. Silverman, William A. Fletcher, Marsha S. Berzon,
Richard C. Tallman, Johnnie B. Rawlinson, and
Richard R. Clifton, Circuit Judges.

ORDER

The separate opinion by Judge Clifton concurring in the judgment filed on December 19, 2007 is amended as follows:

At slip op., p. 16515, 510 F.3d 1093, 1099, insert the following footnote at the end of the first paragraph of the separate opinion:

The plurality opinion has been joined by only five of the eleven judges on this limited en banc panel. Because that constitutes less than a majority of the

panel, that opinion does not announce the law of this circuit. The precedential effect of this decision does not extend beyond the conclusions expressed in this separate opinion, which concurs in the judgment on more narrow grounds. *See Marks v. United States*, 430 U.S. 188, 193 (1977).

With this amendment, the petition for rehearing is DENIED. No further petitions for rehearing will be entertained.

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