

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

CHARLES FRANKLIN MURDOCH, Jr.,  
*Petitioner-Appellant,*

v.

ROY CASTRO, Warden; BILL  
LOCKYER, Attorney General,  
Attorney General of the State of  
California,  
*Respondents-Appellees.*

No. 05-55665

D.C. No.  
CV-99-06900-  
RSWL  
ORDER

Filed October 9, 2008

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**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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