FOR PUBLICATION

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

RONALD HAYWARD, Petitioner-Appellant, v. JOHN MARSHALL, California Men's Colony East, Respondent-Appellee.

No. 06-55392 D.C. No. CV-05-07239-GAF(CT) ORDER

Filed May 16, 2008

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.

PRINTED FOR ADMINISTRATIVE OFFICE—U.S. COURTS BY THOMSON REUTERS/WEST—SAN FRANCISCO

The summary, which does not constitute a part of the opinion of the court, is copyrighted @ 2008 Thomson Reuters/West.