

FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CHARLES EDWARD BYRD,
Plaintiff-Appellant,
v.
MARICOPA COUNTY SHERIFF'S
DEPARTMENT; JOSEPH M. ARPAIO;
KATHLEEN O'CONNELL; AUSTIN
PETERSON; DURANGO JAIL,
Defendants-Appellees.

No. 07-16640
D.C. No.
CV-04-02701-NVW
ORDER

Filed October 6, 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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