

FILED**FOR PUBLICATION**

SEP 04 2014

UNITED STATES COURT OF APPEALSMOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**FOR THE NINTH CIRCUIT****GRAHAM S. HENRY,**

Petitioner - Appellant,

v.

CHARLES L. RYAN,

Respondent - Appellee.

No. 09-99007

D.C. No. 2:02-CV-00656-SRB

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 Federal Rule of Appellate Procedure 35(a) and Circuit Rule 35-3. The April 8, 2014, three-judge panel order denying Henry's motion to reconsider the panel's November 1, 2013, order denying the petition for panel rehearing shall not be cited as precedent by or to any court of the Ninth Circuit.

Judges Murguia and Friedland did not participate in the deliberations or vote in this case.