

FOR PUBLICATION

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

JESSE JAMES ANDREWS,
Petitioner-Appellant,

v.

RON DAVIS,
Respondent-Appellee.

No. 09-99012

D.C. No.
2:02-CV-08969-R

JESSE JAMES ANDREWS,
Petitioner-Appellee,

v.

RON DAVIS,
Respondent-Appellant.

No. 09-99013

D.C. No.
2:02-CV-08969-R

ORDER

Filed April 26, 2018

ORDER

THOMAS, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that these cases be reheard en banc pursuant to Federal Rule of Appellate Procedure 35(a) and Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.

Judge Graber did not participate in the deliberations or vote in these cases.