

FOR PUBLICATION**FILED****UNITED STATES COURT OF APPEALS**

FEB 10 2014

FOR THE NINTH CIRCUITMOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**UNITED STATES OF AMERICA,**

Plaintiff - Appellee,

v.

DAMIEN ZEPEDA,

Defendant - Appellant.

No. 10-10131

D.C. No. 2:08-cr-01329-ROS-1

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 three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.