

FOR PUBLICATION

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

PAULETTE SMITH, individually and
as Successor in Interest to Albert
Dorsey, deceased,

Plaintiff-Appellee,

v.

EDWARD AGDEPPA, an individual,

Defendant-Appellant,

and

CITY OF LOS ANGELES, a
municipal entity; DOES, 1 through 10,

Defendants.

No. 20-56254

D.C. No.
2:19-cv-05370-
CAS-JC

ORDER

Filed May 4, 2023

Before: Consuelo M. Callahan, Morgan Christen, and
Daniel A. Bress, Circuit Judges.

SUMMARY*

Civil Rights

In an action brought pursuant to 42 U.S.C. § 1983 alleging that a police officer used unreasonable deadly force when he shot and killed Albert Dorsey during a failed arrest in the men's locker room of a gym, a majority of the panel sua sponte granted a petition for panel rehearing; denied as moot a petition for rehearing en banc; and ordered that the opinion and dissent filed on December 30, 2022, be withdrawn and that the case be resubmitted.

ORDER

The Honorable Gary Feinerman, United States District Judge for the Northern District of Illinois, sitting by designation, has resigned from judicial service and Judge Callahan was drawn as a replacement judge pursuant to General Order 3.2.h. A majority of the panel has voted sua sponte to grant panel rehearing. Judge Callahan and Judge Bress voted in favor of rehearing, and Judge Christen voted against rehearing. The opinion and dissent filed on December 30, 2022, Dkt. 50, are withdrawn, and the case is resubmitted. Appellant's petition for rehearing en banc, Dkt. No. 59, is denied as moot.

* This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.