

FOR PUBLICATION

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

ZACHARY KELSEY,

Petitioner-Appellant,

v.

TIM GARRETT; et al.,

Respondents-Appellees.

No.22-15557

D.C. No.
3:18-cv-00174-
MMD-CLB
District of
Nevada,
Reno

ORDER

Filed September 21, 2023

Before: GRABER, GOULD, and FRIEDLAND, Circuit
Judges.

ORDER

This case was originally argued to a panel consisting of Judges Graber, Gould and Watford. Judge Watford resigned from the court after the opinion was issued and before Appellees filed a petition for rehearing. Judge Friedland was drawn to replace Judge Watford pursuant to General Order 3.2(h). Judge Friedland has reviewed the briefs, record, and video recording of the prior oral argument, as well as the petition for rehearing and response.

Appellees' petition for panel rehearing is GRANTED. The opinion filed on May 24, 2023, and published at 68 F.4th 1177, is hereby withdrawn, the case is resubmitted, and the opinion is replaced with the memorandum disposition filed concurrently with this order.¹ Appellees' petition for rehearing en banc is DENIED as moot.

Future petitions for rehearing will be permitted under the deadlines outlined in Federal Rules of Appellate Procedure 35(c) and 40(a)(1).

¹ The panel unanimously concludes that this case is suitable for disposition without reargument. See Fed. R. App. P. 40(a)(4)(A).