

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

MAR 08 2010

PAUL EZRA RHOADES,	)	No. 07-99023	
	)		
Petitioner-Appellant,	)	D.C. No. CV-93-00156-S-EJL	MOLLY C. DWYER, CLERK
	)	District of Idaho,	U.S. COURT OF APPEALS
v.	)	Boise	
	)		
JEFF HENRY, of the IMSI,	)	ORDER	
Department of Corrections State of	)		
Idaho,*	)		
	)		
Respondent-Appellee.	)		
_____	)		

Before: RYMER, GOULD and BYBEE, Circuit Judges.

Submission of this case is deferred as to penalty phase issues pending the decision by the Idaho Supreme Court in *Rhoades, et al., v. Idaho*, No. 35187. The parties are requested to file a notice memorandum with the Clerk of this Court as soon as a decision has been rendered in the *Rhoades* case.

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\* Jeff Henry is substituted for his predecessor, Arvon J. Arave, Department of Corrections State of Idaho. Fed. R. App. P. 43(c)(2).