

FILED

JAN 04 2013

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

GREGORY DICKENS,

Petitioner - Appellant,

v.

CHARLES RYAN,

Respondent - Appellee.

No. 08-99017

D.C. No. CV-01-757-PHX-NVW

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.