

MAR 04 2013

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

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

EDWARD HAROLD SCHAD,

Petitioner - Appellant,

v.

CHARLES L. RYAN, Arizona
Department of Corrections,

Respondent - Appellee.

No. 07-99005

D.C. No. CV-9702577-PHX-ROS
District of Arizona,
Phoenix

ORDER

Before: THOMAS, Circuit Judge and Capital Case Coordinator

The full court has been advised of the petition for rehearing and rehearing en banc. Pursuant to the rules applicable to capital cases in which an execution date has been scheduled, a deadline was set by which any judge could request a vote on whether the panel's orders should be reheard en banc.

A judge requested a vote on whether to hear the panel's orders en banc, and a vote was conducted. A majority of the active, non-recused judges eligible to vote on the en banc call voted against rehearing the panel's orders en banc. Therefore, the petition for rehearing en banc is DENIED. No further petitions for panel rehearing or rehearing en banc will be entertained. En banc proceedings with

respect to the orders are concluded. The panel will issue a separate order concerning the petition for panel rehearing.

As is customary, judges will be afforded the opportunity to file separate statements concerning this order. If judges elect to do so, a subsequent amended published order will be filed.