

UNITED STATES COURT OF APPEALS

OCT 20 2013

FOR THE NINTH CIRCUIT

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

ROBERT GLEN JONES, Jr.,  
  
Petitioner - Appellant,

v.

CHARLES RYAN,  
  
Respondent - Appellee.

No. 13-16928

D.C. No. 4:03-cv-00478-DCB  
District of Arizona,  
Tucson

ORDER

ROBERT GLEN JONES, Jr.,  
  
Petitioner,

v.

CHARLES RYAN,  
  
Respondent.

No. 13-73647

Before: THOMAS, Circuit Judge and Capital Case Coordinator

A panel of this Court issued an opinion affirming the district court's dismissal of petitioner's 60(b) motion, denying (in the alternative) Jones's motion to seek relief from judgment under Rule 60(b), and denying Jones' as-construed

application to file a second or successive (“SOS”) habeas petition in No. 13-16928 and his separate application in No. 13-73647 to file a SOS habeas petition.

Petitioner filed a petition for rehearing and rehearing en banc as to the denial of Rule 60(b) relief. The parties are barred by statute from filing a petition for rehearing or rehearing en banc from the decision denying the SOS application. *See* 28 U.S.C. 2244(b)(3)(E). However, the Court *sua sponte* may decide to review en banc the panel's decision on the SOS application. *See Thompson v. Calderon*, 151 F.3d 918, 922 (9th Cir. 1998) (en banc).

Pursuant to the rules applicable to capital cases when an execution date has been scheduled, a deadline was established by which any judge could request a vote on whether the panel's opinion should be reheard en banc. No judge requested a vote on whether to rehear the opinion en banc within the established time period. Therefore, the Petition for Rehearing En Banc is DENIED. En banc proceedings with respect to the panel opinion are concluded.