

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

RONALD HAYWARD, <i>Petitioner-Appellant,</i> v. JOHN MARSHALL, California Men's Colony East, <i>Respondent-Appellee.</i>
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No. 06-55392  
D.C. No.  
CV-05-07239-  
GAF(CT)  
ORDER

Filed May 16, 2008

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**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 Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.

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