

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SCOTT LYNN PINHOLSTER,
Petitioner-Appellee,
v.
ROBERT L. AYERS, Jr., Warden,
Respondent-Appellant.

No. 03-99003
D.C. No.
CV-95-06240-GLT

SCOTT LYNN PINHOLSTER,
Petitioner-Appellant,
v.
ROBERT L. AYERS, Jr., Warden,
Respondent-Appellee.

No. 03-99008
D.C. No.
CV-95-06240-GLT
ORDER

Filed March 20, 2009

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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