

FOR PUBLICATION

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

JOSHUA JAMES FROST,
Petitioner-Appellant,

v.

RON VAN BOENING, Superintendent,
Respondent-Appellee.

No. 11-35114

D.C. No.
2:09-cv-00725-
TSZ

ORDER

Filed February 25, 2013

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.