

FOR PUBLICATION

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

ROBERT ALLEN POYSON,
Petitioner-Appellant,

v.

CHARLES L. RYAN,
Respondent-Appellee.

No. 10-99005

D.C. No.
2:04-cv-00534-NW

ORDER

Filed April 2, 2014

Before: Sidney R. Thomas, Raymond C. Fisher,
and Sandra S. Ikuta, Circuit Judges.

ORDER

The order filed November 7, 2013 is **AMENDED**. The order, as amended, reads as follows:

Judge Thomas has voted to grant the petition for rehearing en banc. Judge Ikuta has voted to deny the petition for rehearing en banc and Judge Fisher has so recommended.

The full court was advised of the petition for rehearing en banc. A judge requested a vote on whether to rehear the matter en banc. The matter failed to receive a majority of the votes of the nonrecused active judges in favor of en banc consideration. Fed. R. App. P. 35(f).

Appellant's petition for rehearing en banc, filed April 12, 2013, is **DENIED**.

Appellant's petition for panel rehearing, filed April 12, 2013, remains pending. The panel will stay proceedings on the petition for panel rehearing pending resolution of en banc proceedings in *McKinney v. Ryan*, 730 F.3d 903 (9th Cir. 2013), *rehearing en banc granted*, 2014 WL 1013859 (Mar. 12, 2014).

This opinion filed at 711 F.3d 1087 (9th Cir. 2013) is amended, and an Amended Opinion was filed concurrently with the original version of this Order.

No further petitions will be entertained.

The clerk shall stay the mandate.