

FOR PUBLICATION

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

EZZARD CHARLES ELLIS,
Petitioner-Appellant,

v.

C. M. HARRISON, Warden,
Respondent-Appellee.

No. 16-56188

D.C. No.
5:05-cv-00520-
SJO-JEM

ORDER

Filed January 30, 2019

ORDER

THOMAS, 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 disposition in this case shall not be cited as precedent by or to any court of the Ninth Circuit.