

FOR PUBLICATION

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

ANTHONY BERNARD SMITH,
JR.,
Petitioner-Appellant,

v.

RON DAVIS,
Respondent-Appellee.

No. 17-15874

D.C. No.
2:15-cv-01785-JAM-AC

ORDER

Filed July 15, 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.