

FOR PUBLICATION

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

BENITO ACOSTA,
Plaintiff-Appellant,

v.

CITY OF COSTA MESA; ALLAN
MANSOOR, Mayor of the City of
Costa Mesa, in his official and
individual capacities,
Defendants-Appellees,

JOHN HENSLEY, Chief of Police,
Costa Mesa Police Department;
DAVID ANDERSEN; DAVID DEHUFF;
JOHN DOEZIE; BRYAN GLASS;
DANIEL GUTH; DAVID MAKIYAMA;
JEFF TOBIN; DEREK TRUSK, in their
official and individual capacities,
Defendants.

No. 10-56854

D.C. No.
8:06-cv-00233-
DOC-MLG
Central District
of California,
Santa Ana

ORDER

Appeal from the United States District Court
for the Central District of California
David O. Carter, District Judge, Presiding

Argued and Submitted
July 9, 2012—Pasadena, California

Filed February 25, 2013

Before: Richard C. Tallman and N. Randy Smith, Circuit Judges, and Dee V. Benson, District Judge.*

COUNSEL

Belinda E. Helzer, ACLU Foundation of Southern California, Orange, California, for Plaintiff-Appellant.

M. Lois Boback (argued) and Daniel K. Spradlin, Woodruff, Spradlin & Smart, APC, Costa Mesa, California, for Defendants-Appellees.

ORDER

The petition for panel rehearing is granted and the opinion filed September 5, 2012, and appearing at 694 F.3d 960 (9th Cir. 2012), is withdrawn. *Carver v. Lehman*, 558 F.3d 869, 878–79 (9th Cir. 2008) (a panel may withdraw an opinion sua sponte before the mandate issues). It may not be cited as precedent by or to this court or any district court of the Ninth Circuit. Withdrawal of the opinion moots the petition for rehearing en banc.

* The Honorable Dee V. Benson, District Judge for the U.S. District Court for the District of Utah, sitting by designation.