

**FOR PUBLICATION**

**FILED**

**UNITED STATES COURT OF APPEALS**

FEB 17 2023

**FOR THE NINTH CIRCUIT**

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

J. K. J., individually, and successor in interest to the Deceased Aleah Jenkins, by by and through his guardian-ad-litem Jeremy Hillyer,

Plaintiff-Appellant,

v.

CITY OF SAN DIEGO, a public entity; DAVID NISLET, in his individual capacity and official capacity as Police Chief of the San Diego Police Department; LAWRENCE DURBIN, an individual; JASON TAUB, an individual; DOES, 1-10, Inclusive,

Defendants-Appellees,

and

NICHOLAS CASICOLA,

Defendant.

No. 20-55622

D.C. No.

3:19-cv-02123-CAB-RBB

Southern District of California,  
San Diego

**ORDER**

**MURGUIA**, 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 is vacated.