

FILED

FOR PUBLICATION

MAY 12 2009

UNITED STATES COURT OF APPEALS

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

FOR THE NINTH CIRCUIT

JOHNATHAN ANDREW DOODY,

Petitioner - Appellant,

v.

**DORA B. SCHRIRO; MEGAN
SAVAGE; ATTORNEY GENERAL OF
THE STATE OF ARIZONA,**

Respondents - Appellees.

No. 06-17161

D.C. No. CV-98-00528-EHC

ORDER

KOZINSKI, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.

Judges Hawkins and Silverman did not participate in the deliberations or vote in this case.