

**FILED**

**FOR PUBLICATION**

MAR 12 2010

**UNITED STATES COURT OF APPEALS**

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

**FOR THE NINTH CIRCUIT**

**ROBERT NORSE,**

Plaintiff - Appellant,

v.

**CITY OF SANTA CRUZ;  
CHRISTOPHER KROHN, individually  
and in his official capacity as Mayor of  
the City of Santa Cruz; TIM  
FITZMAURICE; KEITH A. SUGAR;  
EMILY REILLY; ED PORTER;  
SCOTT KENNEDY; MARK  
PRIMACK, individually and in their  
official capacities as Members of the  
Santa Cruz City Council; LORAN  
BAKER, individually and in his official  
capacity as Sergeant of the Santa Cruz  
Police Department; STEVEN CLARK,**

Defendants - Appellees.

No. 07-15814

D.C. No. CV-02-01479-RMW

**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.