

JUN 04 2009

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

FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERT M. NELSON; et al.,

Plaintiffs - Appellants,

v.

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION, an Agency
of the United States; et al.,

Defendants - Appellees.

No. 07-56424

D.C. No. CV-07-05669-ODW
Central District of California,
Los Angeles

ORDER

Before: THOMPSON and WARDLAW, Circuit Judges, and REED,* District Judge.

Judges Thompson, Wardlaw, and Reed voted to deny Appellees' petition for panel rehearing. Judge Wardlaw voted to deny Appellees' petition for rehearing en banc, and Judges Thompson and Reed so recommended.

The full court was advised of the petition for rehearing en banc. A judge requested a vote on whether to rehear the matter en banc. The matter failed to

* The Honorable Edward C. Reed, Jr., Senior United States District Judge for the District of Nevada, sitting by designation.

receive a majority of the votes of the nonrecused active judges in favor of en banc reconsideration. Fed. R. App. P. 35. Judges O'Scannlain and Ikuta were recused.

The petition for rehearing en banc is denied.

IT IS SO ORDERED.