

FILED

FOR PUBLICATION

APR 21 2017

UNITED STATES COURT OF APPEALS

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

FOR THE NINTH CIRCUIT

**STATE OF HAWAII; ISMAIL
ELSHIKH,**

Plaintiffs-Appellees,

v.

**DONALD J. TRUMP, in his official
capacity as President of the United
States; U.S. DEPARTMENT OF
HOMELAND SECURITY; JOHN F.
KELLY, in his official capacity as
Secretary of Homeland Security; U.S.
DEPARTMENT OF STATE; REX W.
TILLERSON, in his official capacity as
Secretary of State; UNITED STATES
OF AMERICA,**

Defendants-Appellants.

No. 17-15589

D.C. No.

1:17-cv-00050-DKW-KSC

District of Hawaii,

Honolulu

ORDER

THOMAS, Chief Judge and En Banc Coordinator:

The full court was advised of the petition for initial hearing en banc. A judge requested a vote on whether to hear the matter en banc before the limited en banc court. Another judge requested a vote on whether to hear the matter en banc before the full court. The matter failed to receive a majority of the votes of the nonrecused active judges in favor of initial en banc consideration. Fed. R. App. P.

35. Therefore, initial en banc proceedings are concluded, and all remaining issues will be decided by the three-judge panel. The denial of the request for initial hearing en banc does not preclude any party from filing a petition for rehearing en banc pursuant to the applicable rules following issuance of the panel opinion.

This case is scheduled for oral argument before the three-judge panel at 9:30 a.m. on Monday, May 15, 2017, in Seattle Washington.