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## General Docket

### US Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 03-16042

Filed: 6/4/03

Nsuit: 3550 Prisoner civil rights (Fed)

Ngo, et al v. Woodford, et al

Appeal from: Northern District of California (San Jose)

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Case type information:

- 1) prisoner petition
- 2) state
- 3) Civil rights

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Lower court information:

District: 0971-5 : CV-01-20674-JF  
 presiding judge: Jeremy Fogel, District Judge  
 Date Filed: 7/18/01  
 Date order/judgment: 5/6/03  
 Date NOA filed: 5/29/03

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Fee status: partially paid-----  
Prior cases:

None

## Current cases:

None

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VIET MIKE NGO  
 Plaintiff - Appellant

Viet Mike Ngo  
 #E-21895  
 [LD NTC prs]  
 CTF - CORRECTIONAL TRAINING  
 FACILITY  
 Central Facility  
 P.O. Box 689  
 101 North Highway  
 Soledad, CA 93960-0689

Meir Feder, Esq.  
 FAX 212/755-7306  
 212/326-7870  
 [COR LD NTC cap]  
 JONES DAY  
 222 E. 41st St.

New York, NY 10017-6702

v.

JEANNE S. WOODFORD, Warden  
Defendant - Appellee

Jennifer G. Perkell  
FAX 415/703-5415  
415/703-5500  
Suite 11000  
[COR LD NTC dag]  
AGCA - OFFICE OF THE CALIFORNIA  
ATTORNEY GENERAL (OAKLAND)  
1515 Clay St.  
Oakland, CA 94612

Kenneth Roost  
FAX 415/703-5415  
415/703-5827  
Suite 11000  
[COR LD NTC dag]  
AGCA - OFFICE OF THE CALIFORNIA  
ATTORNEY GENERAL  
455 Golden Gate Ave.  
San Francisco, CA 94102

A. P. KANE  
Defendant - Appellee

Jennifer G. Perkell  
(See above)  
[COR LD NTC dag]

Kenneth Roost  
(See above)  
[COR LD NTC dag]

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VIET MIKE NGO

Plaintiff - Appellant

v.

JEANNE S. WOODFORD, Warden; A. P. KANE

Defendants - Appellees

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6/4/03

DOCKETED CAUSE AND ENTERED APPEARANCE OF APPELLANT IN PRO  
PER AND COUNSEL FOR APPELLEES. CADS SENT (Y/N): No. setting  
schedule as follows: appellant's opening brief is due

7/14/03; appellees' brief is due 8/13/03; appellants' reply brief is due 8/27/03. [03-16042] (ru)

6/4/03 Filed Appellant Viet Mike Ngo's motion to proceed in forma pauperis on appeal, served on 5/22/03 (note: motion to proceed ifp is a part of appellant's notice of appeal - on the same page) (to PRO SE) [03-16042] (ru)

7/2/03 Received letter dated 6/29/03 from pro se re: requests copy of Ct's Rules. [Rules sent] (gva)

7/7/03 Received Appellant Viet Mike Ngo's motion to extend time to file appellant's opening brief until 8/13/03; served on 7/1/03 [4785820] (MOATT) [03-16042] (dg)

7/14/03 Filed order (Appellate Commissioner) granting appellant's motion to proceed in forma pauperis [4754784-1] Pursuant to 28 USC 1915(b)(1)&(2), however, aplt eventually must pay the full amount of the fees for this appeal. Consequently, within 21 days of the filing date of this order, aplt shall complete & file with this court the enclosed authorization form, which directs the prison officials at aplt's institution to assess, collect, and forward to the court the \$105 fees for this appeal on a monthly basis whenever funds exist in aplt's trust fund acct. These fees will continue to be collected regardless of the date or manner of disposition of this appeal. If aplt fails to comply with this order, the clerk shall dismiss this appeal for failure to prosecute. 42-1. If aplt complies with this order, appellants' opening brief, excerpts due 8/13/03; appellees' brief due 9/12/03, ;the reply brief will be due within 14 days after serv of the answering brief. Because aplt is a prisoner proceeding ifp and is not represented by csl, aplt is not required to file excerpts of record. ( MOATT) [03-16042] (dg)

7/24/03 Rec'd PLRA authorization response from appellant. (PROSE) ( Date: 7/19/03) [03-16042] (dg)

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8/5/03 Filed order MOATT ( CD) Aplt has been granted leave to proceed ifp in this appeal and has completed and filed the required authorization form directing the prison officials to assess, collect, and forward to the DC the fees for this appeal pursuant to 28 USC 1915(b(1) & (2). This court hereby assesses and initial filing fee of 20%.....The clerk shall serve this order & aplt's completed authorization form on the Atty Gen in Sac, CA, who shall notify the agency or prison.....Each payment should be accompanied by the DC & appellate #.....The clerk shall also serve a copy of this order on the clerk & the financial unit of the DC. The briefing schedule established previously shall remain in effect. [03-16042]

(dg)

8/15/03 Filed original and 7 copies Appellant Viet Mike Ngo opening brief ( Informal: yes) 7 pages; served on 8/13/03 [03-16042] (dg)

9/5/03 Filed original and 15 copies appellee J. S. Woodford, A. P. Kane's 6 pages brief, 5 copies Exc. 1 vol ; served on 9/5/03 [03-16042] (ji)

9/17/03 Calendar check performed [03-16042] (th)

9/22/03 FILED CERTIFIED RECORD ON APPEAL: 1 CLERK'S RECORD.(ORIGINAL) [03-16042] (sd)

11/10/03 SUBMITTED TO SCREENING PANEL 363. ( Oral) [03-16042] [03-16042] (th)

12/1/03 Filed order (PROSE: jmr) Upon review of the record and the briefing in this appeal, this court has determined that the appointment of pro bono csl in this appeal would benefit the court's review. The court by this order expresses no opinion as to the merits of this appeal. The clerk shall enter an order appointing pro bono csl to represent appellant for purposes of this appeal only. Pro bono csl shall prepare supp briefing that will be submitted, along with appellant's brief, to the judges deciding this appeal and shall appear at oral argument. The clerk shall establish a supp briefing schedule. The appeal is stayed pending further order. If aplt objects to the court's appt of csl in this appeal, aplt shall file a written objection within 14 days from the date of entry of this order. [03-16042] (dg)

12/2/03 Rec'd notice of change of address from Appellant Viet Mike Ngo dated 11/30/03. (new add: P.O. Box689, Soledad, CA 93960) [03-16042] (dg)

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12/17/03 Filed order (Deputy Clerk/Pro Se: jmr) Pursuant to this court's order appointing pro bono counsel for appellant, Meir Feder, Esq. is hereby appointed to represent appellant in this appeal. If appellant does not object to this order in writing within 14 days from the date of entry of this order, the Clerk shall amend the docket to reflect that Meir Feder, Esq. Jones Day, 51 Louisiana Avenue, Washington DC, 20001, (202) 879-3829, are counsel of record for appellant in this appeal. This order shall be served on appellant as well as on counsel for appellant. Supplemental briefing shall proceed as follows: appellant's supplemental opening brief is due February 27, 2004; appellee's supplemental answering brief is due March 29, 2004; and appellant's optional supplemental reply brief is due April

12, 2004. This appeal shall be calendared for oral argument in San Francisco, California on the next available calendar. [03-16042] (ru)

2/18/04 14 day oral extension by phone of time to file Appellant brief. [03-16042] appellants' brief due 3/12/04; appellees' brief due 4/12/04, ; appellants' reply brief due 4/26/04; (jmr)

3/12/04 Filed original and 15 copies Appellant Viet Mike Ngo supplemental brief of 17 pages, served on 3/11/04 [03-16042] (dg)

4/12/04 Filed original and 15 copies Appellees' supplemental brief of 15 pages, served on 4/12/04 [03-16042] (dg)

4/26/04 Filed original and 15 copies Appellant Viet Mike Ngo supplemental reply brief of 18 pages, served on 4/26/04 [03-16042] (crw)

5/20/04 Calendar check performed [03-16042] (mw)

6/8/04 Calendar materials being prepared. [03-16042] [03-16042] (mw)

6/15/04 CALENDARED: San Fran August 13, 2004 9:00 AM Courtroom 1 [03-16042] (rei)

7/13/04 CJA travel authorization sent ( Authorization # 9CJA03-160420804 (pro bono)) to Meir Feder for Appellant Viet Mike Ngo . [03-16042] (ay)

8/9/04 Filed Viet Mike Ngo additional citations, served on 8/5/04 (PANEL IN SF) [03-16042] (dg)

8/12/04 Filed Viet Mike Ngo additional citations, served on 8/12/04 (PANEL in SF) [03-16042] (dg)

8/13/04 ARGUED AND SUBMITTED TO Harry PREGERSON, Alex KOZINSKI, John S. Rhoades [03-16042] (ru)

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8/20/04 Rec'd notice of change of address from Meir Feder for Appellant Viet Mike Ngo dated 8/17/04. (new address: JONES DAY, 222 East 41st St., New York, NY 10017) [03-16042] (dg)

9/15/04 GTA bill reconciled ( Paid (Pro Bono)) for Meir Feder for Appellant Viet Mike Ngo . Authorization #: 9CJA03-160420804 [03-16042] (ay)

9/21/04 CJA 21 travel voucher processed AAF. ( CJA 21 #: 092004) for Meir Feder for Appellant Viet Mike Ngo . [03-16042] (mv)

3/24/05 FILED OPINION: REVERSED (Terminated on the Merits after Oral Hearing; Reversed; Written, Signed, Published. Harry PREGERSON, author; Alex KOZINSKI; John S. Rhoades. ) AND ENTERED JUDGMENT. [03-16042] (sf)

3/28/05 Filed motion and deputy clerk order: (Deputy Clerk: sf) Granting motion to extend time to file a petition for rehearing due 4/14/05. (Motion recvd 3/28/05) [03-16042] (sf)

4/14/05 Filed original and 50 copies Appellee Jeanne S. Woodford, Appellee A. P. Kane petition for panel rehearing and petition for rehearing en banc. (PANEL AND ALL ACTIVE JUDGES) 15 p.pages, served on 4/14/05 [03-16042] (sf)

4/25/05 Filed order (Harry PREGERSON, Alex KOZINSKI, John S. Rhoades): Plaintiff-Appellant shall file a response to Defendants- Appellees petition for rehearing and rehearing en banc. Fifty (50) copies of said response shall be filed within twenty-one (21) days of the filed date of this order. [03-16042] (sf)

5/16/05 Filed Appellant Viet Mike Ngo's response to petition opposing petition for enbanc rehearing. served 5/16/05 (PANEL AND ALL ACTIVE JUDGES AND ANY INTERESTED SENIOR JUDGES) [03-16042] (sf)

7/1/05 Filed order (Harry PREGERSON, Alex KOZINSKI, John S. Rhoades): (SEE TEXT) The petition for rehearing is denied and the suggestion for rehearing en banc is rejected. [03-16042] (sf)

7/14/05 Received letter from pro se re: partial bill of cost. Aplt request reimbursement of filing fee for noa. (NO REIMBRSEMENT PER FRAP RULE 39(e)(4). (sf)

7/20/05 MANDATE ISSUED [03-16042] (sf)

10/6/05 Received notice from Supreme Court: petition for certiorari filed Supreme Court No. 05-416 filed on 10/3/05. [03-16042] (sf)

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11/21/05 Filed Supreme Court order, certiorari denied on 11/14/05. Supreme Court No. 05-416 [03-16042] (sf)

11/21/05 Received notice from Supreme Court, petition for certiorari GRANTED on 11/14/05. Supreme Court No. 05-416 (PANEL) (sf)

2/7/06 ONE VOLUME RECORD OF PROCEEDINGS HAD IN THE NINTH CIRCUIT TRANSMITTED TO THE U.S. SUPREME COURT IN S.C. CASE #05-416. THE DISTRICT COURT WILL FORWARD THE LOWER COURT RECORD

DIRECTLY TO THE SUPREME COURT. [03-16042] (stev)

6/27/06 Received copy of Supreme Court opinion dated 6/22/06 .  
(PANEL) [03-16042] (sf)

7/28/06 Filed Supreme Court judgment filed and entered in USSC No.  
05-416 on 6/22/06 remanding case to 9th Circuit. (PANEL)  
[03-16042] (sf)

8/7/06 Filed Appellant Viet Mike Ngo's motion for leave to file  
brief on remand. (PANEL) [03-16042] served on 8/4/06  
[03-16042] (sf)

8/22/06 Filed order ( Harry PREGERSON, Alex KOZINSKI, John S.  
Rhoades): Aplt's motion or leave to file a brief or remand  
is GRANTED. Aplt shall file a brief on or before 9/25/06.  
Any response by Aples shall be field on or before 10/25/06.  
Briefs by both parties shall not exceed 30 pages in length.  
(PHONED AT 12 NOON) [03-16042] (sf)

9/25/06 Filed original and 15 copies Appellant Viet Mike Ngo brief  
on REMAND of 23 pages, served on 9/25/06 (PANEL)  
[03-16042] (sf)

10/25/06 Filed original and 15 copies Appellee Jeanne S. Woodford,  
Appellee A. P. Kane supplemental brief of 19 pages, served  
on 10/25/06 (PANEL) [03-16042] (sf)

4/27/07 Filed order (Deputy Clerk: jf) Oral argument in tis matter  
is set for may 22, 2007 at 10:00 am at the US Court of  
Appeals Bldg at 125 South Grand Ave. in Pasadena, CA.  
(PHONED AT 12:35 pm) [03-16042] (sf)

4/27/07 CALENDARED: PASA May 22 2007 10:00 am Courtroom 2  
[03-16042] (aw)

5/8/07 Filed D. Harris's in Appellant in Harris v. Baca motion for  
order that court consider the briefs on his appeal in the  
instant appeal, and for limited intervention. (PANEL) ;  
served on 5/4/07 [03-16042] (sf)

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5/15/07 Filed Defendant/Appellees in the D. Harris v. Baca appeal  
No. 05-56610 response to motion for order for consideration  
of briefs in his appeal and for limited intervention.  
served on 5/9/07 (PANEL) [03-16042] (sf)

5/17/07 Received (VIA FAX)Jeanne S. Woodford, A. P. Kane additional  
citations dated: 5/17/07, served on 5/17/07 (served panel)  
[03-16042] (lu)

5/17/07 Filed order (Harry PREGERSON, Alex KOZINSKI, John S.  
Rhoades): D. Harris' Motion for Order that Court Consider

the Briefs on His Appeal in the Instant Appeal, and For Limited Intervention is DENIED. (Phoned csl @ 410pm) (mj)

5/17/07 CJA travel authorization sent ( Authorization # 9CJA03-160420507 Pro Bono) to Meir Feder for Appellant Viet Mike Ngo . [03-16042] (ay)

5/18/07 Received Jeanne S. Woodford, A. P. Kane additional citations, served on 5/17/07 (FAXED TO PANEL) [03-16042] (sf)

5/21/07 Filed Aples' additional citations, served on 5/17/07 (PANEL) [03-16042] (mhf)

5/22/07 ARGUED AND SUBMITTED TO Harry PREGERSON, Alex KOZINSKI, John S. Rhoades [03-16042] (dr)

5/22/07 Received in court Viet Mike Ngo additional citations, served on 5/22/07. (PANEL) [03-16042] (dr)

5/30/07 Filed Appellant Viet Mike Ngo's motion for leave to file corrected brief on remand; served on 5/29/07 [6191250] (faxed to PANEL) [03-16042] (hh)

5/30/07 Received original and 15 copies Appellant Ngo's substitute brief of 24 pages to include corrected footnotes and a certificate of compliance served on 5/29/07. (PANEL) [03-16042] (sf)

5/30/07 Received Jeanne S. Woodford, A. P. Kane additional citations, served on 5/30/07 (PANEL) [03-16042] (sf)

6/20/07 GTA bill reconciled ( Paid (pro bono)) for Meir Feder for Appellant Viet Mike Ngo . Authorization #: 9CJA03-160420507 [03-16042] (ay)

6/26/07 CJA 21 travel voucher processed.AAF-PROBONO ( CJA 21 #: 052007) for Meir Feder for Appellant Viet Mike Ngo . [03-16042] (mv)

9/6/07 Filed order (Deputy Clerk: jf) Due ot the death of Judge Rhoades, Judge Bybee has been drawn to replace him on the panel. (PHONE AT 9:17 AM) [03-16042] (sf)

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