

500 F.2d 1382 (1974)

**Nazareth GATES et al., Plaintiffs-Appellees, and  
UNITED States of America, Plaintiff-Intervenor-Appellee,**

**v.**

**John COLLIER, Superintendent, Mississippi State Penitentiary, et al., Defendants-  
Appellants.**

No. 73-1790.

**United States Court of Appeals, Fifth Circuit.**

September 9, 1974.

A. F. Summer, Atty. Gen. of Miss., William A. Allain, Asst. Atty. Gen., P. Roger Googe, Jr., Special Asst. Atty. Gen., Jackson, Miss., for defendants-appellants.

Roy S. Haber, Native American Rights Fund, Boulder, Colo., Frank R. Parker, Jackson, Miss., Edward J. Reilly, New York City, for plaintiffs-appellees.

Michael Davidson, Jesse H. Queen, Thomas R. Sheran, U. S. Dept. of Justice, Civil Rights Div., Washington, D. C., H. M. Ray, U. S. Atty., Oxford, Miss., for intervenor.

Before BROWN, Chief Judge, and WISDOM, GEWIN, BELL, THORNBERRY, COLEMAN, GOLDBERG, AINSWORTH, GODBOLD, DYER, SIMPSON, MORGAN, CLARK, RONEY and GEE, Circuit Judges.

## **ON PETITION FOR REHEARING AND PETITION FOR REHEARING EN BANC**

**(Opinion December 5, 1973, 5 Cir., 1974, 489 F.2d 298).**

BY THE COURT:

A member of the Court in active service having requested a poll on the application for rehearing en banc and a majority of the judges in active service having voted in favor of granting a rehearing en banc.

It is ordered that the cause shall be reheard by the Court en banc with oral argument on a date hereafter to be fixed. The Clerk will specify a briefing schedule for the filing of supplemental briefs.

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