

RECOMMENDED FOR PUBLICATION
Pursuant to Sixth Circuit I.O.P. 32.1(b)

File Name: 24a0116p.06

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

BENNY LEE HODGE,

Petitioner-Appellant,

v.

LAURA PLAPPERT, Interim Warden,

Respondent-Appellee.

No. 17-6032

On Petition for Rehearing En Banc.

United States District Court for the Eastern District of Kentucky at Pikeville.

No. 7:13-cv-00005—David L. Bunning, District Judge.

Decided and Filed: May 21, 2024

Before: SUTTON, Chief Judge; MOORE, CLAY, GIBBONS, GRIFFIN,
KETHLEDGE, STRANCH, THAPAR, BUSH, LARSEN, NALBANDIAN,
READLER, MURPHY, DAVIS, MATHIS, and BLOOMEKATZ, Circuit Judges.

COUNSEL

ON PETITION FOR REHEARING EN BANC: Matthew F. Kuhn, Jacob M. Abrahamson, OFFICE OF THE ATTORNEY GENERAL OF KENTUCKY, Frankfort, Kentucky, for Appellee. **ON RESPONSE:** Dennis J. Burke, DEPARTMENT OF PUBLIC ADVOCACY, LaGrange, Kentucky, Luke P. Ihnen, FEDERAL DEFENDER SERVICES OF EASTERN TENNESSEE, INC., Knoxville, Tennessee, for Appellant.

ORDER

A majority of the Judges of this Court in regular active service has voted for rehearing en banc of this case. Sixth Circuit Rule 35(b) provides as follows:

The effect of the granting of a hearing en banc shall be to vacate the previous opinion and judgment of this court, to stay the mandate and to restore the case on the docket sheet as a pending appeal.

Accordingly, it is ORDERED, that the previous decision and judgment of this court are vacated, the mandate is stayed, and this case is restored to the docket as a pending appeal.

The Clerk will direct the parties to file supplemental briefs and will schedule this case for oral argument as soon as possible.

ENTERED BY ORDER OF THE COURT

A handwritten signature in cursive script that reads "Kelly L. Stephens". The signature is written in black ink and is positioned above a horizontal line.

Kelly L. Stephens, Clerk