

April 12, 2012

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

GARRY THOMAS ALLEN,

Petitioner - Appellee,

v.

RANDALL G. WORKMAN, Warden,
Oklahoma State Penitentiary,

Respondent - Appellant.

No. 12-6094
(D.Ct. No. 5:12-CV-00140-R)
(W.D. Okla.)

ORDER

Before **BRISCOE**, Chief Judge, **KELLY**, **LUCERO**, **MURPHY**, **HARTZ**, **O'BRIEN**,
TYMKOVICH, **GORSUCH**, **HOLMES** and **MATHESON**, Circuit Judges.

Immediately before the issuance of this order, a panel of this court issued an order and judgment vacating the district court order staying Garry Thomas Allen's execution. A poll was called *sua sponte*, and a majority of the active judges of the court have voted to rehear this matter en banc.¹ Consequently, the panel decision is withdrawn and the judgment is vacated. 10th Cir. R. 35.6. The matter is now under en banc consideration

¹ Judges Kelly, O'Brien, Gorsuch, and Holmes would not rehear the matter en banc.

by this court. As a result, the district court's stay order entered April 11, 2012, remains in effect.

Entered for the Court

A handwritten signature in cursive script that reads "Elisabeth A. Shumaker". The signature is written in black ink and has a long, sweeping tail that extends to the right.

ELISABETH A. SHUMAKER
Clerk of Court