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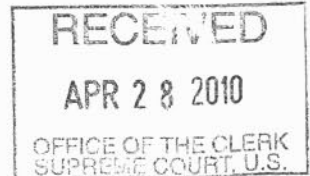
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April 28, 2010

By Email and First Class Mail

William K. Suter, Clerk
Supreme Court of the United States
One First Street N.E.
Washington, DC 20543

re: *Paul Simmons, et al. v. William Francis Galvin, in his capacity as
Secretary of the Commonwealth of Massachusetts;*
Petition for Writ of Certiorari No. 09-920



Dear Mr. Suter:

Today the the United States Court of Appeals for the Ninth Circuit ordered that *Farrakhan v. Gregoire*, No. 06-35669, be reheard en banc. A copy of the court's order is enclosed.

The Ninth Circuit's further decision in *Farrakhan* could eliminate the circuit split that forms the main basis for the petition for a writ of certiorari in this case.

Very truly yours,

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enclosure

copy: Christopher P. Silva, Esq.
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FOR PUBLICATION

APR 28 2010

UNITED STATES COURT OF APPEALS

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

FOR THE NINTH CIRCUIT

**MUHAMMAD SHABAZZ
FARRAKHAN, aka Ernest S. Walker;
AL-KAREEM SHADEED; MARCUS
X. PRICE; RAMON BARRIENTES;
TIMOTHY SCHAAF; CLIFTON
BRICENO,**

Plaintiffs - Appellants,

v.

**CHRISTINE O. GREGOIRE; SAM
REED; HAROLD W. CLARKE;
STATE OF WASHINGTON,**

Defendants - Appellees.

No. 06-35669

D.C. No. CV-96-00076-RHW

ORDER

KOZINSKI, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.