

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 04-5350

September Term, 2006

03cv01601

Filed On: November 21, 2006

[1005558]

Abigail Alliance For Better Access To Developmental
Drugs and Washington Legal Foundation,
Appellants

v.

Andrew C. Von Eschenbach, M.D., in his official
capacity as Acting Commissioner, Food and Drug
Administration, and Michael O. Leavitt, in his official
capacity as Secretary, U.S. Dept. of Health and Human
Services

Appellees

BEFORE: Ginsburg, Chief Judge, and Sentelle, Henderson, Randolph,
Rogers, Tatel, Garland, Brown, Griffith, and Kavanaugh, Circuit
Judges

ORDER

Upon consideration of the appellees' petition for rehearing en banc, the response thereto, and the vote in favor of the petition by a majority of the judges eligible to participate, it is

ORDERED that the petition be granted. This case will be reheard by the court sitting en banc. It is

FURTHER ORDERED that the court's judgment filed on May 2, 2006, be vacated.

An order governing further proceedings will issue separately.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY:
Michael C. McGrail

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