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States Court of Appeals  
for the Third Circuit

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1-15-2020

## Briaheen Thomas v. Tice

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UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 18-1811

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BRIAHEEN THOMAS,  
Appellant,

v.

DEPUTY SUPERINTENDENT TICE, DEPUTY GARMAN,  
CCPM MILLER, and MAJOR HALDERMAN

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(Civ. Action No. 4-16-cv-01487)

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SUR PETITION FOR PANEL REHEARING  
AND REHEARING EN BANC

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Present: SMITH, Chief Judge, McKEE, AMBRO, CHAGARES, JORDAN,  
HARDIMAN, GREENAWAY, JR., SHWARTZ, KRAUSE, RESTREPO, BIBAS,  
PORTER, MATEY and PHIPPS, Circuit Judges

The petition for rehearing filed by **Appellant** in the above-entitled case having been submitted to the judges who participated in the decision of this Court and a majority of the judges who participated in the decision of the Court having voted for rehearing, it is hereby **ORDERED** that the petition for panel rehearing is **GRANTED**. The opinion and judgment filed November 12, 2019 are hereby **VACATED**. An amended opinion<sup>1</sup> and judgment will be filed contemporaneously with this order.

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<sup>1</sup> The majority has made changes to the language that appeared at pages 6 and 11 of the original opinion.

A majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the Court en banc is **DENIED**. Judges McKee, Greenaway and Restrepo voted for rehearing en banc.

BY THE COURT,

s/ David J. Porter  
Circuit Judge

Date: January 15, 2020  
PDB/cc: All Counsel of Record