

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

March 9 2006

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No. 03-41345  
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Charles R. Fulbruge III  
Clerk

In The Matter Of: SUPREME BEEF PROCESSORS INC  
Debtor

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STEPHEN ZAYLER, Trustee of the Estate of  
Supreme Beef Processors Inc

Appellant

v.

DEPARTMENT OF AGRICULTURE; UNITED STATES OF AMERICA

Appellees

- - - - -  
Appeal from the United States District Court for the  
Eastern District of Texas  
- - - - -

ON PETITION FOR REHEARING EN BANC

(Opinion November 16, 2004, 5 Cir., 2004, \_\_\_\_\_F.3d\_\_\_\_)

(March 9, 2006)

BEFORE: JONES, Chief Judge, JOLLY, HIGGINBOTHAM, DAVIS, SMITH,  
WIENER, BARKSDALE, GARZA, DeMOSS, BENAVIDES, STEWART,  
DENNIS, CLEMENT, PRADO and OWEN, Circuit Judges.<sup>1</sup>

BY THE COURT:

A member of the Court in active service having requested  
a poll on the petition for rehearing en banc and a majority of  
the judges in active service having voted in favor of granting a  
rehearing en banc,

IT IS ORDERED that this cause shall be reheard by the  
court en banc with oral argument on a date hereafter to be fixed.  
The Clerk will specify a briefing schedule for the filing of  
supplemental briefs.

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<sup>1</sup>Judge King is recused and did not participate in this  
decision.