

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 15 2011

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

DANIEL EUGENE RUFF,

Plaintiff - Appellant,

v.

WILLIAM R. ZUMWALT; SANDY R.
ROPER,

Defendants - Appellees,

and

MARK SHERMAN, Planner; KINGS
COUNTY,

Defendants.

No. 10-15080

D.C. No. 1:05-cv-00631-OWW-
GSA

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Oliver W. Wanger, Senior District Judge, Presiding

Argued and Submitted July 13, 2011
San Francisco, California

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Before: SILVERMAN and GRABER, Circuit Judges, and LYNN, District Judge.**

Daniel Ruff cross-appeals from the district court's judgment following a jury verdict in his favor as to his procedural due process claim against Kings County and several named county officials, but adverse as to his substantive due process and equal protection claims. Ruff contends that the district court erred in rejecting his requested jury instruction stating that amendments to county general plans are not valid unless published post adoption. We have jurisdiction pursuant to 28 U.S.C. § 1291. We affirm.

California Government Code section 65356 provides that general plans shall be amended by resolution. Because only ordinances, and not resolutions, are subject to the publication requirement of section 25124 of the California Government Code, the district court did not err in rejecting Ruff's requested instruction that a resolution to amend a county's general plan is not valid unless published after adoption. *Midway Orchards, Inc. v. County of Butte*, 220 Cal. App. 3d 765, 774-75, 779 (1990); *City of Sausalito v. County of Marin*, 12 Cal. App. 3d 550, 565-66 (1970).

AFFIRMED.

** The Honorable Barbara M. G. Lynn, District Judge for the U.S. District Court for Northern Texas, Dallas, sitting by designation.