

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

DARRYL DARMONT SHIRLEY,
Petitioner-Appellant,

v.

JAMES A. YATES, Warden;
ATTORNEY GENERAL OF THE STATE
OF CALIFORNIA,
Respondents-Appellees.

No. 13-16273

D.C. No.
2:07-cv-01800-
AK

ORDER

Filed March 21, 2016

Before: Sidney R. Thomas, Chief Judge, and Stephen
Reinhardt and Morgan Christen, Circuit Judges.

ORDER

The opinion filed November 20, 2015, and appearing at 807 F.3d 1090, is hereby amended as follows:

1. Slip op. at 31, line 2–8: remove the sentence: “We do so, however, bearing in mind that because the defendant’s prima facie case at Step One supports an inference of discriminatory motive, in order to preclude that showing from prevailing at Step Three there must be sufficient evidence of the true, nondiscriminatory motive on which the particular strikes were actually based.”

2. Slip op. at 42, line 6–7: replace “*prima facie* case” with “evidence” and remove “by a preponderance of the evidence.”

With these amendments, the panel has voted to deny the petition for panel rehearing and the petition for rehearing en banc. The full court has been advised of the petition for rehearing en banc, and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 35. The petitions for rehearing and rehearing en banc are **DENIED**. No further petitions for rehearing or petitions for rehearing en banc will be entertained.