

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

WALTER JOSEPH COOK III,  
*Petitioner-Appellant,*

v.

SCOTT KERNAN,  
*Respondent-Appellee.*

No. 17-17257

D.C. No.  
3:15-cv-06343-  
WHA

ORDER

Filed September 28, 2020

Before: Consuelo M. Callahan, N. Randy Smith,  
and Mary H. Murguia, Circuit Judges.

Order

**ORDER**

Judge Callahan has voted to deny Appellant's petition for rehearing and petition for rehearing en banc. Judge N.R. Smith has voted to deny Appellant's petition for rehearing and recommends denying the petition for rehearing en banc. Judge Murguia has voted to grant the petition for rehearing and rehearing en banc.

The full court has been advised of the petition for rehearing en banc. A judge requested a vote on whether to rehear the matter en banc. The matter failed to receive a majority of votes of the nonrecused active judges in favor of en banc consideration. Fed. R. App. P. 35(f).

The petition for rehearing and for rehearing en banc is **DENIED**.