

DEC 09 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHN MICHAEL KELLY,

Plaintiff - Appellant,

v.

U.S. CENSUS BUREAU; U.S.  
DEPARTMENT OF COMMERCE,

Defendants - Appellees.

No. 11-17684

D.C. No. 3:10-cv-04507-JSW  
Northern District of California,  
San Francisco

ORDER AMENDING

Before: HUG, FARRIS, and LEAVY, Circuit Judges.

The memorandum disposition filed on October 2, 2013 is amended as follows:

Page 2, line 19: Replace “file” with “files.”

Page 3, line 13: At the end of the paragraph, add the following: “We also deny Kelly’s requests on appeal that we disqualify the district court judge on remand and assign the case to a new judge because of the judge’s allegedly biased rulings, including his order denying summary judgment. *See Liteky*, 510 U.S. at 551, 555-56; *see also Myers v. United States*, 652 F.3d 1021, 1037-38 (9th Cir.

2011); *D'Lil v. Best Western Encina Lodge & Suites*, 538 F.3d 1031, 1040-41 (9th Cir. 2008).”

With these amendments, the petition for rehearing is DENIED.

We do not retain jurisdiction over this case.

The parties shall bear their own costs on appeal.

No further filings shall be accepted in this closed case.