

CERTIFIED FOR PARTIAL PUBLICATION*

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT

CDF FIREFIGHTERS,

Plaintiff and Respondent,

v.

RICHARD A. MALDONADO et al.,

Defendants and Appellants.

F049638

(Super. Ct. No. 04CECG01764)

**ORDER MODIFYING OPINION
AND DENYING REHEARING
[NO CHANGE IN JUDGMENT]**

THE COURT:

IT IS ORDERED that the partial published opinion filed herein on January 14, 2008, be modified in the following particulars:

1. On page 8 of the published portion of this opinion, the second full paragraph under the heading “E. Imposition of Trusteeship,” the paragraph should read as follows:

On January 22, 2003, without prior notice to State Board members that a new bylaw would be discussed and after barring Maldonado from attending the discussion on the new bylaw, the State Board voted to adopt a new bylaw, OPH 413.06, which for the first time authorized trusteeships over chapters and regions. Maldonado was present for the vote on the new bylaw only and voted against the new bylaw. Then, on January 23, 2003, in an executive session which excluded Maldonado, the State Board voted to impose an emergency trusteeship over Pittman’s San Benito-Monterey Chapter, the other chapters of Region IV, and Region IV in its entirety,

* Pursuant to California Rules of Court, rules 8.1105(b) and 8.1110, this opinion is certified for publication with the exception of part II.

removing its entire elected officials from office, and appointing trustees to take charge of their financial records and property.

2. On page 10 of the published portion of this opinion, the last paragraph under subheading “F. Subsequent Events After Imposition of Trusteeship,” the paragraph should read as follows: Barrett postponed the hearing without notifying Pittman and without setting a new date. Months later, on October 3, 2003, Barrett sent Pittman notice of an October 17, 2003 hearing and advised Pittman that the hearing committee was recused from hearing Bywater’s charges regarding disruption of the membership hearing, but was not recused from hearing the remaining Bywater charges.

3. On page 17 of the unpublished portion of this opinion, Part II, following the last full paragraph, please add the following paragraph.

With respect to the charges levied against Pittman relating to his post-trusteeship conduct, if, on remand, the trial court determines that the trusteeship was validly imposed, the trial court then must ascertain whether futility applies.

Appellant’s petition for publication of Part II is denied. Respondent’s petition for rehearing is denied. Except for the modifications set forth, the opinion previously filed remains unchanged.

These modifications do not effect a change in the judgment.

ARDAIZ, P. J.

WE CONCUR:

HARRIS, J.

KANE, J.