

**FOR PUBLICATION**

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

JOSEPH A. KENNEDY,  
*Plaintiff-Appellant,*

v.

BREMERTON SCHOOL DISTRICT,  
*Defendant-Appellee.*

No. 16-35801

D.C. No.  
3:16-cv-05694-RBL

**ORDER**

Filed January 25, 2018

Before: DOROTHY W. NELSON, MILAN D. SMITH,  
JR., and MORGAN CHRISTEN, Circuit Judges.

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**ORDER**

Judges M. Smith and Christen have voted to deny the petition for rehearing en banc, and Judge Nelson so recommends. A judge of the court called for a vote on the petition for rehearing en banc. A vote was taken, and a majority of the non-recused active judges of the court failed to vote for en banc rehearing. Fed. R. App. P. 35(f). The petition for rehearing en banc is **DENIED**.