

United States District Court
For the Northern District of California

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E-FILED on 10/18/10


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ANTHONY M. RAMIREZ,
Petitioner,
v.
JAMES A. YATES, Warden, et. al.,
Respondents.

No. C-03-1817 RMW
ORDER DENYING MOTION FOR
REHEARING AND MOTION TO STAY
PROCEEDINGS
[Re Docket No. 96]

On September 13, 2010, petitioner moved for recusal. On September 15, 2010, the court denied his motion for recusal. Petitioner now moves for rehearing of his motion for recusal and for a stay of proceedings and seeks to have another district judge rule on his motions. Petitioner appears to believe that the challenged judge should not rule on a motion to recuse himself. However, the Ninth Circuit has "held repeatedly that the challenged judge himself should rule on the legal sufficiency of a recusal motion in the first instance." *United States v. Studley*, 783 F.2d 934, 940 (9th Cir. 1986). The court has already considered petitioner's motion for recusal and found it to be legally insufficient. The court thus denies his motion for rehearing and for a stay of proceedings.

DATED: 10/18/10


RONALD M. WHYTE
United States District Judge