

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.

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**.