

LATE TESTIMONY

Testimony of James H. Wright

Nomination of James H. Ashford

Friday, August 2, 2013

I am James H. Wright and I was admitted to practice law in the State of Hawaii on May 26, 1987. I believe the information provided in this letter and the attached information may be useful to you in considering the nomination of James H. Ashford to become a Judge of the District Court.

Mr. Ashford and his firm Cades Schutte represented Plaintiff Martha Lee Ruggles in First Circuit Court Civil Number 07-1-1619-08 SSM. I represented all of the named defendants. This matter was a dispute between a real estate broker and her clients concerning a commission.

Mr. Ashford attempted to serve the Complaint by Certified Mail, Restricted Delivery on my client Defendant Lawrence Ronco. Mr. Ronco was in Florida at the time the letter was delivered and the postal worker asked his office manager to sign for it who did so without authorization.

By email on September 21, 2007, at 7:28 am I promptly advised Mr. Ashford that Mr. Ronco had not signed for the certified letter. He responded at 10 am the same day saying that he considered service as "achieved" and would proceed to entry of default and default judgment if an answer was not filed. He filed an Affidavit of Service that day as well at 3:40 pm which he signed on September 21.

Mr. Ashford falsely represented to the court that the Complaint and Summons were delivered to Mr. Ronco and that he had signed the return receipt.

I spoke to Mr. Ashford and he was unwilling to withdraw or correct the false affidavit. He was strident in his insistence that he was going to proceed notwithstanding the failure to properly serve Mr. Ronco. After multiple efforts to persuade him to change his mind I reported his actions to his firm via email to

Cades Schutte senior partner Jeffrey Portnoy on September 28, 2007. I subsequently provided copies of relevant materials to Mr. Portnoy.

After Mr. Portnoy's involvement, Mr. Ashford relented and attempted to serve Mr. Ronco personally at his Boston office. Service was again improper. The description of the person served did not match Mr. Ronco but it did match his office manager Mr. Dion. I had provided copies of Mr. Ronco's and Mr. Dion's driver's licenses to Mr. Ashford. Mr. Ashford did proceed to file for a default against Mr. Ronco based on the defective personal service. However, he did not attempt to enforce. While I received permission to accept service for my clients I did so. I filed answers for all of them without objection from Mr. Ashford. The case settled on reasonable terms for both parties.

Mr. Ashford was admitted to the bar on October 21, 1988. At the time of the events in the fall of 2007, he had nearly 20 years of experience. We all make mistakes but his conduct was not inadvertent, it was willful.

Before signing an affidavit, Mr. Ashford had the obligation to check the signature postal receipt. It is not clear but it obviously is not Lawrence Ronco's. He had in his possession documents with Mr. Ronco's signature which demonstrated the signature on the receipt was not that of the person who was being served.

If his initial actions could be excused as an oversight, once I advised him on September 21, 2007, that Mr. Ronco had not signed for the Complaint and Summons, he should not have filed the Affidavit of Service. His position that restricted delivery ensured that the addressee had, in fact, signed for it is laughable. Other than a neophyte, no one could honestly take that position because it is exceedingly common that postal receipt cards are not signed by the person for whom they are intended.

I have had problems with service by mail – I think any attorney who does litigation has had the same experience. The ethical response is to try again, not to proceed in violation of Hawaii law and court rules.

The problems with the subsequent personal service are serious but more sloppy than willful. While he obtained a default based on it, he backed off immediately when confronted unlike the previous episode with service by mail and I did not have to report him to his firm.

The legal system operates in many ways on an "honor system." The court clerks and judges have to be able to rely on representations made by attorneys. The system would collapse if matters such as service of legal process required the judiciary to verify what members of the bar say is true. As attorneys we are officers of the court and have at least a minimal level of obligation to work within the clearly established rules for our conduct.

In my 25 years of legal practice in Hawaii I have never had an experience such as that with Mr. Ashford. I was troubled by what he did and wondered if simply reporting him to the firm was sufficient. I told him at the time that the only reason I did not file an Office of Disciplinary Counsel complaint was that his late father had been kind to me in a matter in which we represented aligned clients.

I have attached Mr. Ashford's Affidavit of Service and the relevant emails.

James H. Wright
745 Fort Street, Suite 1925
Honolulu, Hawaii 96813
T: 808-523-1187
F: 808-748-0580
E: wright@hawaii.rr.com

Andria Pakele

From: Jim Helton [Jim.Helton@us.fujitsu.com]
Sent: Thursday, August 01, 2013 5:47 PM
To: JDLTestimony
Subject: In the Matter of the Judicial Appointment of James Ashford, Esq.

In the matter of The Senate of the Twenty-Seventy Legislature Interim of 2013
The Committee on Judiciary and Labor
Senator Clayton Hee, Chair
Senator Maile S. L. Shimabukuro, Vice Chair

Date: Friday, August 2, 2013
Time: 12:00 pm
Place: Conference Room 016
State Capitol
415 South Beretania Street

To all concerned parties:

When I learned of the Senate hearing to explore the potential appointment of Mr. James Ashford to the position of Judge of the District Court of the First Circuit, State of Hawaii, I had to make known my assessment and opinion of this man and this action. I have not known Mr. Ashford long. In fact, I would recollect I have known him approximately three years to the best of my ability to remember. I cannot speak to you of his childhood. I cannot relate to you his high school or college days. I cannot offer any testimony regarding his time in law school, the kind of husband he is or how he is as a father. My experience has been limited to him as an attorney at law. And, the scope of this knowledge does not date back over the last 20 years but as aforementioned, only the last three. It is my belief this perspective of the man he is today, unclouded by a man he may have been is very relevant in considering Mr. Ashford for his Judicial Appointment because this is the man who would be representing the judicial system should he be appointed.

I should preface this by stating I am not a person who is easily impressed. Degrees and titles only tell me you were a good enough student to get "D" or better in your field of study. In this instance, I am not awed at the number of cases an attorney has won. It simply means on a particularly given day he was able to out argue another attorney of unknown ability. To me, the score card is but a mere part of the equation which needs to be evaluated. The true test of a man, in my humble opinion, is his moral compass. Even more specific, it is not merely the values and virtues one claims to possess, but rather the application of these things; especially when the situation is more conducive and convenient to act outside of one's moral standards.

Integrity is not a belief but rather a challenge of one's moral conviction by difficult circumstances.

If I could only use one word to describe Mr. Ashford, it would be integrity. My particular case in which Mr. Ashford represented my wife's and my interests was your typical family feud blood bath over a probate matter. These cases, as you well know, consist of heightened emotions and oftentimes irrational thought from both parties. Dirty tactics and sinking to whatever depths are necessary to win is certainly not uncommon. Mr. Ashford never, not for one second ever, considered such tactics even when they could have potentially proven to be productive. His clear, calm and concise demeanor remained the touchstone of analyzing more than a strategy of winning. He continued to probe and analyze the facts—good and bad—to determine the high road at all times. I cannot express enough my gratitude to him for helping to keep me aligned with my own integrity.

But there is more than just this. I pride myself on being a very good judge of character and more times than not, I am eventually proven right. Mr. Ashford was not a cynic. He was not jaded and callused. He genuinely appeared to care not just about winning or losing our case, he sincerely cared about the health, welfare and state of mind of my wife and me. He always maintained his professional posture, but he would call at times he knew were dark and troublesome. At these times, he did not call to discuss the case or provide any updates, he simply called to check in on us and see how we were doing. He offered us words of support and comfort when these things were in short supply. He did so without ever overstepping and professional boundaries and yet did so with a very genuine heart.

Mr. Ashford is the rare embodiment of humanity and compassion coupled with unmatched expertise in his field. From a legal perspective, the other party never stood a chance even though they were represented by a very seasoned attorney. Mr. Ashford's logic and critical thinking skills are a wonder to behold. He has a no-nonsense ability to cut through the superfluous and get right to the facts. In doing so, his logic and reasoning is capable of piecing the puzzle together in an effective and efficient manner to obtain clarity and understanding. It is these things which are at the core of what I believe a good judge must embody. He can understand your situation and be touched while not allowing it to sway or move him. He can see through the veil and piece together the probable truth of the matter with deft resolve. He, more than anyone I have ever had the good fortune of encountering, represents all of the ideals and characteristics of what a judge should possess. Any decision other than affirming the judicial appointment of Mr. Ashford would be a grave injustice as he would truly put the honor in "his Honor."

I swear under penalty of Perjury under the laws of Hawaii the aforementioned Declaration is true and correct to the best of my knowledge and experience.

Delivered this 1st day of August, 2013 in the city of Sunnyvale in the State of California.

Jim Helton