

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	To President Clinton from Charles Ruff et al. Subject: Decision memorandum - Middle District of Louisiana (4 pages)	03/30/1999	P2
002. list	POB (Partial); DOB (Partial) (1 page)	n.d.	P6/b(6)
003. memo	Personal (1 page)	04/01/1999	P6/b(6)
004. memo	To President Clinton from Charles Ruff et al. Subject: Decision memorandum regarding Ninth Circuit (Hawaii) vacancy (4 pages)	04/01/1999	P2

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COLLECTION:

Clinton Presidential Records
Counsel's Office
Eric Angel
OA/Box Number: 24264

FOLDER TITLE:

Thursday Judge's Meetings - Miscellaneous Judge Memos

Jamie Mettrailer
2012-0072-F
jm695

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfiled in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

April 1, 1999



MEMORANDUM TO THE PRESIDENT (via John Podesta)

From: Charles F.C. Ruff, Bruce Lindsey, Melanne Verveer, Charles Burson,
Mark Childress, Eldie Acheson, Sarah Wilson, and Eric Angel

Subject: Decision Memorandum Regarding Ninth Circuit (Hawaii) Vacancy

I. INTRODUCTION

Since August 1997, we have been attempting to fill a vacancy in the Ninth Circuit with a candidate from Hawaii. Working closely with Senator Inouye, we have seriously considered three different candidates, none of whom, in the end, had any legitimate possibility of Senate confirmation. We now believe that we have found a highly-qualified individual who has a reasonable likelihood of being confirmed by the Senate: **James E. Duffy**, a 56-year-old Caucasian man who has been a partner in the Honolulu law firm of Fujiyama, Duffy & Fujiyama since 1975.

Duffy is a highly-respected member of the Hawaii bar, having served as a past president of the Hawaii Trial Lawyers Association, the Hawaii Academy of Plaintiffs Attorneys, and the Hawaii State Bar Association. Duffy has an outstanding reputation in Hawaii as a trial lawyer who is retained to litigate difficult cases as both a plaintiffs and defense counsel. Senator Inouye has informed us that he strongly supports Duffy to fill the Ninth Circuit vacancy, and that he will expend substantial energy to get him confirmed. We have met Duffy, and are persuaded that he will be a worthy addition to the Ninth Circuit. Under these circumstances, we recommend that you authorize us to send James Duffy forward to the ABA and the FBI as your presumptive nominee for the Hawaii vacancy on the Ninth Circuit.

II. BIOGRAPHICAL BACKGROUND

James ("Jim") E. Duffy, though born and educated on the mainland, has been a litigator in Hawaii for his entire legal career. Born in Saint Paul, Minnesota, Duffy received his B.A. from the College of St. Thomas in 1965 and his J.D. from Marquette University Law School in 1968. During law school, Duffy was on the Board of Editors of the of the *Marquette Law Review* and served as a part-time research assistant at both the Defense Research Institute and the law school's War on Poverty Project.

Upon graduation from law school, Duffy moved to Hawaii and entered private practice, first as an associate at Cobb & Gould (1968-71), then as an associate at Chuck & Fujiyama (1972-74). In 1975, Wallace Fujiyama, a top trial lawyer described by the Hawaii press as a "political power broker for local people," asked Duffy to be a name partner in the newly-created

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law firm of Fujiyama, Duffy & Fujiyama. Duffy has been a partner at the firm for almost twenty-five years and has reportedly developed a reputation as one of Hawaii's top trial lawyers. While in private practice, Duffy has served as a Special Master assessing the Bishop Estate and has devoted a substantial amount of time serving as a mediator and arbitrator in civil disputes.

Duffy is a prominent and active attorney in Hawaii legal circles. Among his numerous bar-related activities, Duffy is a member of the Hawaii State Bar Association, the American Bar Association, the Western Trial Lawyers Association, the Association of Trial Lawyers of America (ATLA), and the Judicial Council of Hawaii. Duffy was also a founding member of Hawaii's American Inn of Court IV.

Duffy has served in leadership positions in many of these organizations. He has served on the Board of Governors of the Western Trial Lawyers Association (1978-82) and ATLA (1982-85) and on the Board of Directors for the Hawaii Bar Foundation (1984-1989). In addition, Duffy is a past President of the Hawaii Trial Lawyers Association (1981), the Hawaii State Bar Association (1982), and the Hawaii Academy of Plaintiffs Attorneys (1986-1993).

Duffy has also been active in judicial-related committees. He has served as an attorney representative on the Hawaii Judicial Salary Commission (1990-91) and the Ninth Circuit Judicial Conference (1994-1996). Duffy currently serves on the Hawaii Judicial Arbitration Commission (1986-present), the Hawaii Standing Committee on Rules of Civil Procedure and Circuit Court Civil Rules (1986-present), and the Hawaii Supreme Court Judicial Council (1984-present). Since 1993, Duffy has been the Co-Chair of the Hawaii Supreme Court Committee on Equality and Access to the Courts.

Duffy has received acclaim for his litigation skills. He is a recent recipient of Lifetime Achievement Awards from both the Hawaii State Bar Association (1996) and from the Consumer Lawyers of Hawaii (1999). On a personal note, although soft-spoken and articulate, Duffy is known in Hawaii as, quite literally, a cowboy; his participation in rodeo-type events was featured in a recent *Hawaii Bar Journal* article entitled "Extreme Lawyers."

II. LEGAL EXPERIENCE

The bulk of Duffy's litigation experience has been in civil cases at the state trial court level. In this capacity, he has developed an impressive reputation for obtaining large verdicts as a plaintiffs' personal injury lawyer and for defending significant product liability and professional liability claims as a defense counsel. Duffy has also performed criminal work, including defending one felony trial and helping to negotiate favorable guilty pleas for prominent clients.

Duffy initially made his reputation as a plaintiff's lawyer, specializing in personal injury, product liability, and medical negligence cases. News reports, as well as Duffy's forms, document numerous large monetary settlements: a \$655,000 settlement for a man with leg and



foot injuries in a traffic accident, a \$680,000 settlement for a man killed in a helicopter accident, a \$925,000 settlement for a man killed in a blasting accident, a \$1.8 million settlement for a woman severely burned when her gas water heater exploded, a \$2 million settlement for a child who suffered brain damage from a gunshot wound, a \$2.1 million settlement involving a man disabled by an accident at sea, and a \$2.75 million settlement for a woman severely injured in a motorcycle accident. Duffy was also the trial attorney in a federal bench trial in 1987, obtaining an \$8.9 million verdict in a medical malpractice case brought on behalf of an infant who was severely physically disabled due to medical mismanagement during birth. At the time, this was the largest award for a case of this type in Hawaii history.

Duffy is currently the lead plaintiffs' counsel in an extraordinarily high-stakes, high-profile litigation brought in 1994 on behalf of the Office of Hawaiian Affairs ("OHA") against the State of Hawaii for an alleged breach of constitutional and statutory Public Land Trust duties. At issue are revenues from Hawaii's use of approximately 1.8 million acres of land the Republic of Hawaii ceded to the United States upon annexation in 1898. Lead by Duffy, OHA contends that it has never received its fair share of revenues from those lands as required by the state constitution and the relevant statutory provisions. In 1996, the trial court granted Duffy's motion for summary judgment without putting a monetary value on the judgment and allowed an interlocutory appeal to the Hawaii Supreme Court, where Duffy argued the matter. At oral argument, the Chief Justice urged both sides to try to negotiate a settlement. Those negotiations are currently pending.

The fact that Duffy was retained to litigate and negotiate a matter of this significance (the revenues involved are valued at approximately \$500 million) demonstrates the degree to which he is held in esteem within the Hawaiian legal community. Nevertheless, this case could prove controversial in two important respects. First, Duffy's legal opponent in the matter is Hawaii's Attorney General, who was previously considered for this vacancy, has vigorously opposed the litigation, and might conceivably oppose Duffy's nomination. More significantly, this Office of Hawaiian Affairs case could resonate negatively in certain conservative circles.

dgment

under a 1978 state constitutional amendment creating the office. OHA sued the state in 1994 and won in 1996. The State of Hawaii appealed to the state supreme court, which urged both sides to negotiate a settlement. As far as we can tell, those settlement negotiations are still pending. The stakes are extraordinarily high in these negotiations; various officials have estimated that the overdue revenues could exceed \$ 1 billion.

Obtained



•December 1987:\$8.4 million verdict, 500K to mother, Moreno, one of the state's largest injury awards. **check what happened in case?**

- \$925,000 settlement for man killed in 1977 blasting accident“one of the largest of its kind”
- in 1987, received \$8.9 million verdict on behalf of son and motchr by Judge Samuel P. King against the United States, boy's delivery, cerebral palsy.
(senior partner...)

Nature of practice: defense and plaintiff.

OHA case.

Big cases.

Fong Quote.

Tobacco cases, asbestosis.

III. Quasi-Judicial Experience

Work as an arbitrator •Arbitration case: ruled that Hawaii responsible for flood damage to 200 homes, resulting in millions of dollars in damage, **check** 05/11/89

Bishop Estate

III. Legal Writings

Writings - articles & journals: one sentence. Paragraph on punitive damage article.

IV. JUDICIAL EXPERIENCE

a. Experience as a County Judge

In November 1986, Wilson was appointed by then Governor Graham to serve as a judge in a county court which had original jurisdiction over most criminal misdemeanors and civil actions for damages less than \$15,000. As a state judge, Wilson obtained a broad range of judicial experience. During his four years as a county judge, our review indicates that Wilson was reversed only four times, all in criminal cases. Twice he declined to suppress evidence that the reviewing court ruled should have been suppressed and once he gave faulty jury instructions.



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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Robert B. Johnson to Adrian E. Miller at 11:55:25.00. Subject: Re: Weekly Report Bullets. (partial) (1 page)	03/17/2000	P2 3071
002. email	Carrie A. Street to Lauren A. Skryzowski at 15:51:35.00. Subject: fax we received. (1 page)	03/28/2000	P2 3072
003. email	Lauren A. Skryzowski to Carrie A. Street at 10:03:26.00. Subject: Re: fax we received. (partial) (1 page)	03/29/2000	P2 3073
004. email	Carrie A. Street to Lauren A. Skryzowski at 11:07:31.00. Subject: fax we received. (Partial) (1 page)	03/29/2000	P2 3074
005. email	Christine L. Anderson to Imarca at 12:12:06.00. Subject FYI. (32 pages)	05/29/2000	P6/b(6), b(7)(C), b(7)(E), b(7)(F)

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COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
WHO ([Galloway])
QA/Box Number: 500000

FOLDER TITLE:

[01/31/1997 - 10/24/2000]

Adam Bergfeld
2012-0072-F
nb984

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

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- C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

diversity that exist under your leadership..

CIRCUIT COURT OF APPEALS NOMINEE ROBERT GALLOWAY

We are receiving a number of calls from Mississippi urging that Robert Galloway not be nominated to the 5th Circuit. We first heard of this from Elaine Jones, but now it looks like there is a movement developing among minority lawyers across the nation against this nomination.

POLICE RECOMMENDATIONS FROM HUGH PRICE

In the aftermath of the exoneration of the New York policemen, Hugh Price has wrote you Imploring you to invoke all of your statutory and regulatory authority to compel local police departments to reform their policies and practices regarding recruitment , training and supervision of police officers and the permissible use of firearms. See attached letter.

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Carrie A. Street (CN=Carrie A. Street/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:28-MAR-2000 15:51:35.00

SUBJECT: fax we received

TO: Lauren A. Skryzowski (CN=Lauren A. Skryzowski/OU=WHO/O=EOP&EOP [WHO])
READ:UNKNOWN

TEXT:

Hi Lauren -

We just received a 22 page fax from James E. Ross, Jr., President of the Magnolia Bar Association. Basically, he's unhappy with the President's decision to appoint Robert Galloway for the Fifth Circuit Court of Appeals. There doesn't appear to be any kind of scheduling request.

Would your office handle this?

Thanks!
Carrie
x65487

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Lauren A. Skryzowski (CN=Lauren A. Skryzowski/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:29-MAR-2000 10:03:26.00

SUBJECT: Re: fax we received

TO: Carrie A. Street (CN=Carrie A. Street/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN

TEXT:

This would be handled by the Counsel's office as they do judge appointments. Please forward it to someone in Nolan's staff, thanks.

lauren

Carrie A. Street

03/28/2000 03:51:28 PM

Record Type: Record

To: Lauren A. Skryzowski/WHO/EOP@EOP

CC:

Subject:fax we received

Hi Lauren -

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Carrie

x65487

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Carrie A. Street (CN=Carrie A. Street/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:29-MAR-2000 11:07:31.00

SUBJECT: Re: fax we received

TO: Lauren A. Skryzowski (CN=Lauren A. Skryzowski/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TEXT:

Great - thanks!

Lauren A. Skryzowski
03/29/2000 10:03:18 AM
Record Type: Record

To: Carrie A. Street/WHO/EOP@EOP
cc:
bcc:
Subject: Re: fax we received

This would be handled by the Counsel's office as they do judge appointments. Please forward it to someone in Nolan's staff, thanks.

lauren

Carrie A. Street
03/28/2000 03:51:28 PM
Record Type: Record

To: Lauren A. Skryzowski/WHO/EOP@EOP
cc:
Subject:fax we received

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