

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT,
TERRITORY OF HAWAII.

TERRITORY OF HAWAII,

vs.

GRACE FORTESCUE, THOMAS H.
MASSIE, EDWARD J. LORD and
ALBERT O. JONES,

Defendants.

CERTIFICATE;
AFFIDAVIT OF GRACE FORTESCUE;
AFFIDAVIT OF THOMAS H. MASSIE;
AFFIDAVIT OF EDWARD J. LORD;
AFFIDAVIT OF ALBERT O. JONES.

FILED
at 11:37 o'clock A.M.

MAR 1 1932

L. R. Sherman
Clerk.

THOMPSON & WINN
500 Inter-Island Bldg., Honolulu
Attorneys for Defendants.

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT,
TERRITORY OF HAWAII.

TERRITORY OF HAWAII,)
)
 vs.)
)
 GRACE FORTESCUE, THOMAS H.)
 MASSIE, EDWARD J. LORD and)
 ALBERT O. JONES,)
)
 Defendants.)
 _____)

C E R T I F I C A T E

Come now THOMPSON & WINN, counsels of record for
Grace Fortescue, Thomas H. Massie, Edward J. Lord and
Albert O. Jones, and certify that the affidavits
attached hereto are made in good faith.

Dated, Honolulu, T. H., March 8th, 1932.

THOMPSON & WINN

Frank E. Thompson
Frank E. Thompson

Montgomery E. Winn
Montgomery E. Winn

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT,
TERRITORY OF HAWAII.

TERRITORY OF HAWAII,)
vs.)
GRACE FORTESCUE, THOMAS H.)
MASSIE, EDWARD J. LORD and)
ALBERT O. JONES,)
Defendants.)

AFFIDAVIT OF GRACE FORTESCUE

TERRITORY OF HAWAII,)
CITY AND COUNTY OF HONOLULU.) ss.

GRACE FORTESCUE, being duly sworn, deposes and says:

That she is one of the four defendants in the above entitled cause and matter, and that she believes and therefore avers the fact to be that the Honorable A. M. Cristy, Second Judge of the Circuit Court of the First Judicial Circuit, Territory of Hawaii, has a personal bias or prejudice against her and the other three defendants in said cause and matter, and for that reason seeks that he be disqualified from further proceeding therein.

The facts and reasons for the belief that such bias or prejudice exist are as follows:

(1) That the said Honorable A. M. Cristy after having been repeatedly notified by the members of the Territorial Grand Jury that they had returned a no bill against the affiant and the three other defendants on the charges of first degree murder, second degree murder and kidnapping refused to accept the report of no bill returned by the Grand Jury and coerced the Grand Jury into bringing in a true bill of second degree murder against said four defendants.

(2) That at the arraignment of the affiant and the other three defendants on Friday, the 29th day of January, 1932, counsel for defendants requested the Honorable A. M. Cristy, the presiding judge, to grant a continuance of one week within which to plead, and that thereupon Barry S. Ulrich, Esq., Special Prosecutor, in open court consented to the request, saying in substance that such a continuance was ordinarily granted as a matter of course, but that the Honorable A. M. Cristy despite the consent of the City and County Attorney refused to grant the continuance requested but ordered the defendants to appear at the hour of 1:30 p.m. on Monday, the first day of February, 1932, to plead to said indictments.

(3) That at the arraignment of the affiant and the other three defendants on Friday, the 29th day of January, 1932, counsel for defendants presented to the Honorable A. M. Cristy, the presiding judge, a motion that the affiant be released on bail of Five Thousand Dollars, and the other three defendants on bail of Two Thousand Dollars each; that thereupon Barry S. Ulrich, Esq., Special Prosecutor, in open court stated to the court that he, representing the Territory of Hawaii, would consent to the defendants being released upon the same bail as the defendants in the case of Territory of Hawaii vs. Ben Ahakuelo et al.; that thereupon defendants' counsel informed the court that the bail fixed in the latter case was in the sum of Two Thousand Dollars for four of the defendants and Two Thousand Five Hundred Dollars for the remaining defendant, but that the Honorable A. M. Cristy despite the remarks of the said Barry S. Ulrich, Esq. fixed the bail of the affiant and the other three defendants at Fifty Thousand Dollars each unless he, the Honorable A. M. Cristy, should receive

assurance from the Secretary of the United States Navy that cooperation would be given by the Navy Department in keeping the defendants within the jurisdiction of the court; that after having made said order the Honorable A. M. Cristy ordered Captain Ward Wortman to surrender custody of the four defendants to Patrick K. Gleason, Sheriff of the City and County of Honolulu, Territory of Hawaii, to be incarcerated in the City and County Jail.

(4) That on March 2nd, 1932, the four defendants filed a motion that their trial in the above entitled cause and matter be continued and postponed until Monday, the 11th day of April, 1932; that supporting said motion was an affidavit of Frank E. Thompson and Montgomery E. Winn, reference to which is hereby made; that a hearing was had on said motion at the hour of 9:15 A.M. on Saturday, the 5th day of March, 1932; that at said hearing defendants' counsel stated to the court that Clarence S. Darrow would arrive in Honolulu on March 24th, 1932, and that it would be necessary to have at least ten days for the said Clarence S. Darrow to properly prepare said case for trial; that John C. Kelley, Esq., Public Prosecutor, did not object to said continuance, but in this behalf said that he considered a continuance until Tuesday, the 29th day of March, 1932, would be a reasonable continuance, but that the Honorable A. M. Cristy, despite the fact

that John C. Kelley, Esq. consented to having the trial of the case postponed until March 29th, 1932, set the case for trial on Monday, the 28th day of March, 1932.

Grace Fortuon

Subscribed and sworn to before me
this 8th day of March, A. D. 1932.

[Signature]
Notary Public, First Judicial
Circuit, Territory of Hawaii.

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT,
TERRITORY OF HAWAII.

TERRITORY OF HAWAII,)
)
 vs.)
)
 GRACE FORTESCUE, THOMAS H.)
 MASSIE, EDWARD J. LORD and)
 ALBERT O. JONES,)
)
 Defendants.)

AFFIDAVIT OF THOMAS H. MASSIE

TERRITORY OF HAWAII,)
) ss.
 CITY AND COUNTY OF HONOLULU.)

THOMAS H. MASSIE, being duly sworn, deposes and says:

That he is one of the four defendants in the above entitled cause and matter, and that he believes and therefore avers the fact to be that the Honorable A. M. Cristy, Second Judge of the Circuit Court of the First Judicial Circuit, Territory of Hawaii, has a personal bias or prejudice against him and the other three defendants in said cause and matter, and for that reason seeks that he be disqualified from further proceeding therein.

The facts and reasons for the belief that such bias or prejudice exist are as follows:

(1) That the said Honorable A. M. Cristy after having been repeatedly notified by the members of the Territorial Grand Jury that they had returned a no bill against the affiant and the three other defendants on the charges of first degree murder, second degree murder and kidnapping refused to accept the report of no bill returned by the Grand Jury and coerced the Grand Jury into bringing in a true bill of second degree murder against said four

defendants.

(2) That at the arraignment of the affiant and the other three defendants on Friday, the 29th day of January, 1932, counsel for defendants requested the Honorable A. M. Cristy, the presiding judge, to grant a continuance of one week within which to plead, and that thereupon Barry S. Ulrich, Esq., Special Prosecutor, in open court consented to the request, saying in substance that such a continuance was ordinarily granted as a matter of course, but that the Honorable A. M. Cristy despite the consent of the City and County Attorney refused to grant the continuance requested but ordered the defendants to appear at the hour of 1:30 p.m. on Monday, the first day of February, 1932, to plead to said indictments.

(3) That at the arraignment of the affiant and the other three defendants on Friday, the 29th day of January, 1932, counsel for defendants presented to the Honorable A. M. Cristy, the presiding judge, a motion that the affiant and the defendants Edward J. Lord and Albert O. Jones be released on bail of Two Thousand Dollars each, and the defendant Grace Fortescue on bail of Five Thousand Dollars; that thereupon Barry S. Ulrich, Esq., Special Prosecutor, in open court stated to the court that he, representing the Territory of Hawaii, would consent to the defendants being released upon the same bail as the defendants in the case of Territory of Hawaii vs. Ben Ahakuelo et al.; that thereupon defendants' counsel informed the court that the bail fixed in the latter case was in the sum of Two Thousand Dollars for four of the defendants and Two Thousand Five Hundred Dollars for the remaining defendant, but that the Honorable A. M. Cristy

despite the remarks of the said Barry S. Ulrich, Esq., fixed the bail of the affiant and the other three defendants at Fifty Thousand Dollars each unless he, the Honorable A. M. Cristy, should receive assurance from the Secretary of the United States Navy that cooperation would be given by the Navy Department in keeping the defendants within the jurisdiction of the court; that after having made said order the Honorable A. M. Cristy ordered Captain Ward Wortman to surrender custody of the four defendants to Patrick K. Gleason, Sheriff of the City and County of Honolulu, Territory of Hawaii, to be incarcerated in the City and County Jail.

(4) That on March 2nd, 1932, the four defendants filed a motion that their trial in the above entitled cause and matter be continued and postponed until Monday, the 11th day of April, 1932; that supporting said motion was an affidavit of Frank E. Thompson and Montgomery E. Winn, reference to which is hereby made; that a hearing was had on said motion at the hour of 9:15 a.m. on Saturday, the 5th day of March, 1932; that at said hearing defendants' counsel stated to the court that Clarence S. Darrow would arrive in Honolulu on March 24th, 1932, and that it would be necessary to have at least ten days for the said Clarence S. Darrow to properly prepare said case for trial; that John C. Kelley, Esq., Public Prosecutor, did not object to said continuance, but in this behalf said that he considered a continuance until Tuesday, the 29th day of March, 1932, would be a reasonable continuance, but

that the Honorable A. M. Cristy, despite the fact that John C. Kelley, Esq. consented to having the trial of the case postponed until March 29th, 1932, set the case for trial on Monday, the 28th day of March, 1932.

Thomas H. Massie

Subscribed and sworn to before me
this 28th day of March, A. D. 1932.

W. W. Guchi
Notary Public, First Judicial
Circuit, Territory of Hawaii.

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT,
TERRITORY OF HAWAII.

TERRITORY OF HAWAII,

vs.

GRACE FORTESCUE, THOMAS H.
MASSIE, EDWARD J. LORD and
ALBERT O. JONES,

Defendants.

AFFIDAVIT OF EDWARD J. LORD

TERRITORY OF HAWAII,)
CITY AND COUNTY OF HONOLULU.) ss.

EDWARD J. LORD, being duly sworn, deposes and says:

That he is one of the four defendants in the above entitled cause and matter, and that he believes and therefore avers the fact to be that the Honorable A. M. Cristy, Second Judge of the Circuit Court of the First Judicial Circuit, Territory of Hawaii, has a personal bias or prejudice against him and the other three defendants in said cause and matter, and for that reason seeks that he be disqualified from further proceeding therein.

The facts and reasons for the belief that such bias or prejudice exist are as follows:

(1) That the said Honorable A. M. Cristy after having been repeatedly notified by the members of the Territorial Grand Jury that they had returned a no bill against the affiant and the three other defendants on the charges of first degree murder, second degree murder and kidnapping refused to accept the report of no bill returned by the Grand Jury and coerced the Grand Jury into bringing in a true bill of second degree murder against said four defendants.

(2) That at the arraignment of the affiant and the other three defendants on Friday, the 29th day of January, 1932, counsel for defendants requested the Honorable A. M. Cristy, the presiding judge, to grant a continuance of one week within which to plead, and that thereupon Barry S. Ulrich, Esq., Special Prosecutor, in open court consented to the request, saying in substance that such a continuance was ordinarily granted as a matter of course, but that the Honorable A. M. Cristy despite the consent of the City and County Attorney refused to grant the continuance requested but ordered the defendants to appear at the hour of 1:30 p.m. on Monday, the first day of February, 1932, to plead to said indictments.

(3) That at the arraignment of the affiant and the other three defendants on Friday, the 29th day of January, 1932, counsel for defendants presented to the Honorable A. M. Cristy, the presiding judge, a motion that the affiant and the defendants Thomas H. Massie and Albert O. Jones be released on bail of Two Thousand Dollars each, and the defendant Grace Fortescue on bail of Five Thousand Dollars; that thereupon Barry S. Ulrich, Esq., Special Prosecutor, in open court stated to the court that he, representing the Territory of Hawaii, would consent to the defendants being released upon the same bail as the defendants in the case of Territory of Hawaii vs. Ben Ahakuelo et al.; that thereupon defendants' counsel informed the court that the bail fixed in the latter case was in the sum of Two Thousand Dollars for four of the defendants and Two Thousand Five Hundred Dollars for the remaining defendant, but that the Honorable A. M. Cristy despite the remarks of the said Barry S. Ulrich, Esq. fixed the bail of the affiant and the other three defendants at Fifty Thousand Dollars

each unless he, the Honorable A. M. Cristy, should receive assurance from the Secretary of the United States Navy that cooperation would be given by the Navy Department in keeping the defendants within the jurisdiction of the court; that after having made said order the Honorable A. M. Cristy ordered Captain Ward Wortman to surrender custody of the four defendants to Patrick K. Gleason, Sheriff of the City and County of Honolulu, Territory of Hawaii, to be incarcerated in the City and County Jail.

(4) That on March 2nd, 1932, the four defendants filed a motion that their trial in the above entitled cause and matter be continued and postponed until Monday, the 11th day of April, 1932; that supporting said motion was an affidavit of Frank E. Thompson and Montgomery E. Winn, reference to which is hereby made; that a hearing was had on said motion at the hour of 9:15 a.m. on Saturday, the 5th day of March, 1932; that at said hearing defendants' counsel stated to the court that Clarence S. Darrow would arrive in Honolulu on March 24th, 1932, and that it would be necessary to have at least ten days for the said Clarence S. Darrow to properly prepare said case for trial; that John C. Kelley, Esq., Public Prosecutor, did not object to said continuance, but in this behalf said that he considered a continuance until Tuesday, the 29th day of March, 1932, would be a reasonable continuance, but that the Honorable A. M. Cristy despite the fact that John C. Kelley, Esq. consented to having the trial of the

case postponed until March 29th, 1932, set the case for trial on Monday, the 28th day of March, 1932.

Edward G. Hunt

Subscribed and sworn to before me
this 28th day of March, A. D. 1932.

W. W. O'Neil
Notary Public, First Judicial
Circuit, Territory of Hawaii.

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT,
TERRITORY OF HAWAII.

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 vs.)
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 GRACE FORTESCUE, THOMAS H.)
 MASSIE, EDWARD J. LORD and)
 ALBERT O. JONES,)
)
 Defendants.)

AFFIDAVIT OF ALBERT O. JONES

TERRITORY OF HAWAII,)
) ss.
 CITY AND COUNTY OF HONOLULU.)

ALBERT O. JONES, being duly sworn, deposes and says:

That he is one of the four defendants in the above entitled cause and matter, and that he believes and therefore avers the fact to be that the Honorable A. M. Cristy, Second Judge of the Circuit Court of the First Judicial Circuit, Territory of Hawaii, has a personal bias or prejudice against him and the other three defendants in said cause and matter, and for that reason seeks that he be disqualified from further proceeding therein.

The facts and reasons for the belief that such bias or prejudice exist are as follows:

(1) That the said Honorable A. M. Cristy after having been repeatedly notified by the members of the Territorial Grand Jury that they had returned a no bill against the affiant and the three other defendants on the charges of first degree murder, second degree murder and kidnapping refused to accept the report of no bill returned by the Grand Jury and coerced the Grand Jury into bringing

in a true bill of second degree murder against said four defendants.

(2) That at the arraignment of the affiant and the other three defendants on Friday, the 29th day of January, 1932, counsel for defendants requested the Honorable A. M. Cristy, the presiding judge, to grant a continuance of one week within which to plead, and that thereupon Barry S. Ulrich, Esq., Special Prosecutor, in open court consented to the request, saying in substance that such a continuance was ordinarily granted as a matter of course, but that the Honorable A. M. Cristy despite the consent of the City and County Attorney refused to grant the continuance requested but ordered the defendants to appear at the hour of 1:30 p.m. on Monday, the first day of February, 1932, to plead to said indictments.

(3) That at the arraignment of the affiant and the other three defendants on Friday, the 29th day of January, 1932, counsel for defendants presented to the Honorable A. M. Cristy, the presiding judge, a motion that the affiant and the defendants Thomas H. Massie and Edward J. Lord be released on bail of Two Thousand Dollars each, and the defendant Grace Fortescue on bail of Five Thousand Dollars; that thereupon Barry S. Ulrich, Esq., Special Prosecutor, in open court stated to the court that he, representing the Territory of Hawaii, would consent to the defendants being released upon the same bail as the defendants in the case of Territory of Hawaii vs. Ben Ahakuelo et al.; that thereupon defendants' counsel informed the court that the bail fixed in the latter case was in the sum of Two Thousand Dollars for four of the defendants and Two

Thousand Five Hundred Dollars for the remaining defendant, but that the Honorable A. M. Cristy despite the remarks of the said Barry S. Ulrich, Esq. fixed the bail of the affiant and the other three defendants at Fifty Thousand Dollars each unless he, the Honorable A. M. Cristy, should receive assurance from the Secretary of the United States Navy that cooperation would be given by the Navy Department in keeping the defendants within the jurisdiction of the court; that after having made said order the Honorable A. M. Cristy ordered Captain Ward Wortman to surrender custody of the four defendants to Patrick K. Gleason, Sheriff of the City and County of Honolulu, Territory of Hawaii, to be incarcerated in the City and County Jail.

(4) That on March 2nd, 1932, the four defendants filed a motion that their trial in the above entitled cause and matter be continued and postponed until Monday, the 11th day of April, 1932; that supporting said motion was an affidavit of Frank E. Thompson and Montgomery E. Winn, reference to which is hereby made; that a hearing was had on said motion at the hour of 9:15 a.m. on Saturday, the 5th day of March, 1932; that at said hearing defendants' counsel stated to the court that Clarence S. Darrow would arrive in Honolulu on March 24th, 1932, and that it would be necessary to have at least ten days for the said Clarence S. Darrow to properly prepare said case for trial; that John C. Kelley, Esq., Public Prosecutor, did not object to said continuance, but in this behalf said that he considered a continuance until Tuesday, the 29th day of March, 1932, would be a reasonable continuance,

but that the Honorable A. M. Cristy, despite the fact that John C. Kelley, Esq. consented to having the trial of the case postponed until March 28th, 1932, set the case for trial on Monday, the 28th day of March, 1932.

Albert C. Jones

Subscribed and sworn to before me
this 28 day of March, 1932.

W. W. G. G. G.
Notary Public, First Judicial
Circuit, Territory of Hawaii.