

Honolulu, Hawaii

APR 24 2007

RE: JUD. COM. NO. 3

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred Judiciary Communication No. 3, submitting for study and consideration the nomination of:

LLOYD VAN DE CAR, to the District Court of the Third Circuit;
begs leave to report as follows:

Upon review of the resume, application for judicial office, testimony, and the nominee's submissions, your Committee finds that the nominee graduated from Kamehameha Schools and received his Bachelor of Arts Degree from the University of Hawaii. The nominee received his Juris Doctor Degree from the William S. Richardson School of Law. The nominee was in the second class of graduates, which included many others who distinguished themselves in Hawaii's legal and political fields, from that school. The nominee clerked in the Hawaii Supreme Court and then went to work in the Public Defenders Office. Later, the nominee worked for Legal Aid Society of Hawaii for fifteen years before going to private practice for eight years. The nominee then went back into public service working at the Attorney General's Office in the Family Law Division in Hilo.

Your Committee received and reviewed information from the Office of the Disciplinary Counsel of three complaints on the nominee that were all investigated and dismissed.

Your Committee received testimony in support of the nominee from seventeen individuals, six of whom were attorneys. Your Committee also received testimony in opposition to the nominee from six individuals.



Your Committee heard concerns about the temperament of the nominee from those who opposed the nomination. The fact that the concerns were raised by employees of the Family Court in Hilo was troublesome to your Committee. Your Committee checked with judges who also noted the temperament issue. In reference to the nominee's temperament, your Committee points to one of the testimonies:

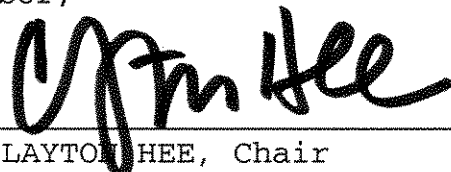
"I clearly remember Mr. Van De Car pointing his extended finger so close to one of my witness's face that I saw this witness become more verbally defensive and offensive than I ever seen him become... . My other witness, a female professor, also felt unduly badgered by Mr. Van De Car, who, as she saw it, approached her with a street-level confrontational style rather than a manner better suited to Family Court decorum."

Your Committee is also concerned that the nominee may not be able to hear many of the cases in Family Court because of a conflict where his former office would be involved. This may have an impact on the caseload backlog in the court.

However, your Committee is aware of the nominee's years of public service representing the poor and disadvantaged and his candidness in his recognition of the temperament concerns and that his future conduct as a judge will be closely observed. Your Committee also finds that the Judiciary will need to address any conflict issues administratively.

As affirmed by the records of votes of the members of your Committee on Judiciary and Labor that are attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate consent to the nomination.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,




CLAYTON HEE, Chair



The Senate
Twenty-Fourth Legislature
State of Hawaii

Record of Votes
Committee on Judiciary and Labor
JDL

Judiciary Communication No.: JC 3	Committee Referral: JDL	Date: 4/21/07		
<input type="checkbox"/> The Committee is reconsidering its decision				
The Recommendation is: <input checked="" type="checkbox"/> Consent 2347 <input type="checkbox"/> Not Consent 2345				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	/			
KOKUBUN, Russell S. (VC)	/			
INOUE, Lorraine R.	/			
NISHIHARA, Clarence K.	/			
GABBARD, Mike	/			
TOTAL	5			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				